

**EXPLANATION****A By-law to amend the Zoning and Development By-law  
re the Pinnacle site**

After the public hearing on July 18, 2006, Council resolved to amend the Zoning and Development By-law to create a CD-1 zone for 2 - 88 West 1<sup>st</sup> Avenue, 2 - 26 East 1<sup>st</sup> Avenue, and 27 - 99 West 2<sup>nd</sup> Avenue. The Director of Planning has advised that all prior-to conditions have been met, and enactment of the attached by-law will implement Council's resolution.

Director of Legal Services  
February 26, 2008

2 - 88 West 1<sup>st</sup> Avenue  
2 - 26 East 1<sup>st</sup> Avenue  
27 - 99 West 2<sup>nd</sup> Avenue



BY-LAW NO. \_\_\_\_\_

**A By-law to amend  
Zoning and Development By-law No. 3575  
to rezone an area to CD-1**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

**Zoning District Plan Amendment**

1. This By-law amends the Zoning District Plan attached as Schedule D to By-law No. 3575, and amends or substitutes the boundaries and districts shown on it, according to the amendments, substitutions, explanatory legends, notations, and references shown on the plan marginally numbered Z-583(c) attached as Schedule A to this By-law, and incorporates Schedule A into Schedule D to By-law No. 3575.

**Definitions**

2. In this By-law, despite section 2 of the Zoning and Development By-law, “base surface” means the base surface calculated from the official established building grades.

**Uses**

3.1 The description of the area shown within the heavy black outline on Schedule A is CD-1 (464).

3.2 Subject to Council approval of the form of development, to all conditions, guidelines and policies adopted by Council, and to the conditions set out in this By-law or in a development permit, the only uses permitted within CD-1 (464) and the only uses for which the Director of Planning or Development Permit Board will issue development permits are:

- (a) Dwelling Uses, limited to Multiple Dwelling;
- (b) Institutional Uses, limited to Child Day Care Facility, Social Service Centre, and Special Needs Residential Facility;
- (c) Live-Work Use;

- (d) Manufacturing Uses, limited to Bakery Products Manufacturing, Batteries Manufacturing, Clothing Manufacturing, Dairy Products Manufacturing, Electrical Products or Appliances Manufacturing, Food or Beverage Products Manufacturing - Class B, Furniture or Fixtures Manufacturing, Ice Manufacturing, Jewellery Manufacturing, Leather Products Manufacturing, Miscellaneous Products Manufacturing - Class B, Non-metallic Mineral Products Manufacturing - Class B, Plastic Products Manufacturing, Printing or Publishing, Rubber Products Manufacturing, Shoes or Boots Manufacturing, Software Manufacturing, Textiles or Knit Goods Manufacturing, Tobacco Products Manufacturing, and Wood Products Manufacturing - Class B;
- (e) Office Uses;
- (f) Parking Uses;
- (g) Retail Uses, but not including Gasoline Station - Full Serve, Gasoline Station - Split Island, Liquor Store, and Vehicle Dealer;
- (h) Service Uses, limited to Animal Clinic, Barber Shop or Beauty Salon, Bed and Breakfast Accommodation, Catering Establishment, Photofinishing or Photography Laboratory, Photofinishing or Photography Studio, Print Shop, Restaurant - Class 1, Restaurant - Class 2, Neighbourhood Public House, School - Arts or Self-Improvement, and School - Business;
- (i) Accessory Uses customarily ancillary to the uses listed in this section 3.2; and
- (j) Interim Uses not listed in this section 3.2, and accessory uses customarily ancillary to them, if:
  - (i) the Director of Planning or Development Permit Board considers that the interim use will be compatible with and not adversely affect adjacent development that either exists or that this By-law allows,
  - (ii) the Director of Planning or Development Permit Board is satisfied that the interim use is easily removable and is of low intensity or low in capital investment,
  - (iii) the Director of Planning or Development Permit Board is satisfied that there is no risk to the public from contaminated soils either on or adjacent to CD-1 (464), and
  - (iv) any development permit for an interim use has a time limit of three years.

## Conditions of use

4.1 Dwelling units are in an “intermediate zone” as defined in the Noise Control By-law, and, as a result, are subject to the noise levels permitted in industrial and downtown districts.

4.2 The design and lay-out of at least 25% of the dwelling units must:

- (a) be suitable for family housing;
- (b) include two or more bedrooms; and
- (c) comply with Council’s “High Density Housing for Families with Children Guidelines”.

4.3 All uses except dwelling uses must have direct access to grade.

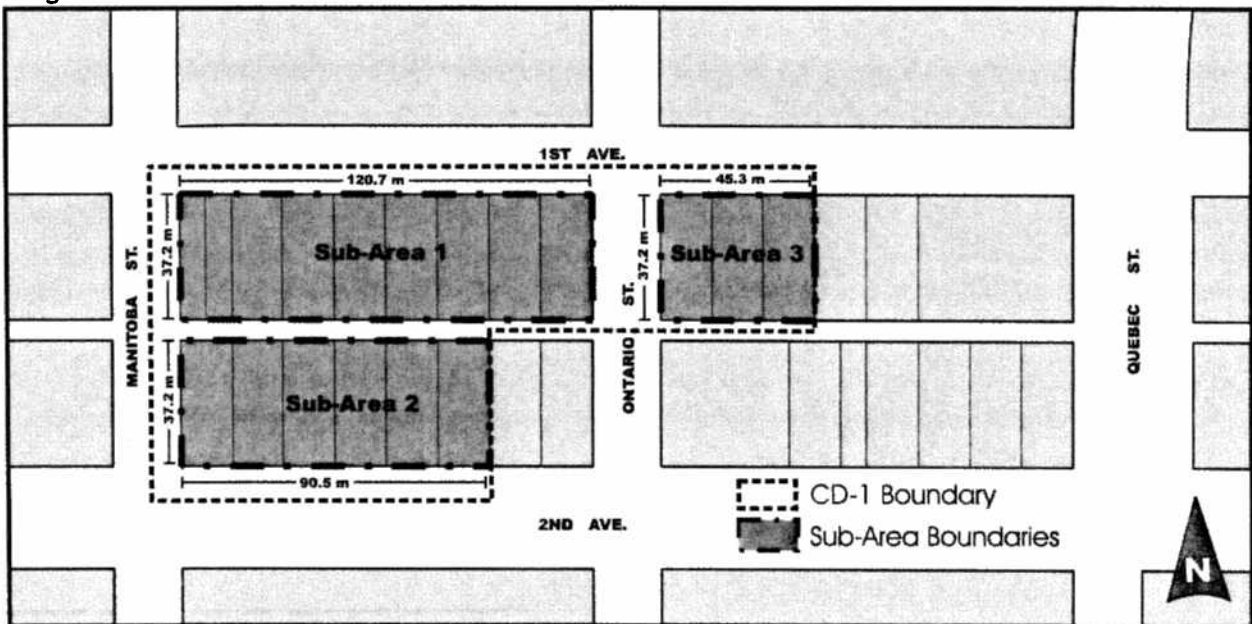
4.4 Any development permit issued for live-work uses must stipulate as permitted uses:

- (a) dwelling units;
- (b) general office, health care office, barber shop or beauty salon, photofinishing or photography studio, or artist studio - class A; and
- (c) dwelling unit combined with any uses set out in subsection (b).

## Sub-areas

5. The site is to consist of sub-areas 1, 2, and 3 illustrated in Diagram 1:

Diagram 1



## Density

6.1 Computation of floor area must assume that the site consists of 9 556 m<sup>2</sup>, being the site size at the time of the application for the rezoning evidenced by this By-law, and before any dedications.

6.2 The floor area for all uses must not exceed 34 143.23 m<sup>2</sup>.

6.3 Despite section 6.2, the Development Permit Board may permit an increase in floor area, not to exceed 3 344.67 m<sup>2</sup>, resulting from a transfer of extra density from a designated heritage property, within the area of the South East False Creek Official Development Plan, in relation to which its receipt was as compensation for the reduction in market value at the time of designation.

6.4 Computation of floor area must include all floors having a minimum ceiling height of 1.2 m, including earthen floor, both above and below ground, measured to the extreme outer limits of the building.

6.5 Computation of floor area must exclude:

- (a) open residential balconies or sundecks, and any other appurtenances which, in the opinion of the Director of Planning, are similar to the foregoing, except that the total area of all exclusions must not exceed 8% of the residential floor area being provided;
- (b) patios and roof gardens, if the Director of Planning first approves the design of sunroofs and walls;
- (c) where floors are used for off-street parking and loading, the taking on or discharging of passengers, bicycle storage, heating and mechanical equipment, or uses which in the opinion of the Director of Planning are similar to the foregoing, those floors or portions thereof so used, which are at or below base surface, except that the maximum exclusion for a parking space must not exceed 7.3 m in length;
- (d) undeveloped floor area located above the highest storey or half-storey with a ceiling height of less than 1.2 m, and to which there is no permanent means of access other than a hatch;
- (e) all residential storage space above or below base surface, except that if the residential storage space above base surface exceeds 3.7 m<sup>2</sup> for a dwelling unit, there is to be no exclusion for any of the residential storage space above base surface for that unit;
- (f) amenity areas including day care facilities, recreation facilities, and meeting rooms except that the total area excluded must not exceed 1 000 m<sup>2</sup>; and

- (g) where a Building Envelope Professional as defined in the Building By-law has recommended exterior walls greater than 152 mm in thickness, the area of the walls exceeding 152 mm, but to a maximum exclusion of 152 mm thickness.

6.6 Computation of floor area may exclude, at the discretion of the Director of Planning or Development Permit Board:

- (a) enclosed residential balconies if the Director of Planning or Development Permit Board first considers all applicable policies and guidelines adopted by Council, and approves the design of any balcony enclosure, except that:
  - (i) the total area of all open and enclosed balcony or sundeck exclusions must not exceed 8% of the residential floor area being provided, and
  - (ii) enclosure of the excluded balcony floor area must not exceed 50%;
- (b) windows recessed into the building face to a depth of no more than 160 mm, except that the Director of Planning or Development Permit Board may allow a greater depth in cases where it improves building character;
- (c) unenclosed outdoor areas at grade level underneath building overhangs, if:
  - (i) the Director of Planning or Development Permit Board first considers all applicable policies and guidelines adopted by Council and approves the design of any overhangs, and
  - (ii) the area of all overhang exclusions does not exceed 1% of the residential floor area being provided;
- (d) open to below spaces or double height volumes on the second storey units if the location of the first floor is within 2 m of grade to a maximum of 15% of the floor area of the first floor of that unit for residential and live-work units;
- (e) passive solar appurtenances on buildings that help mitigate solar gain which may be in the form of balconies or light shelves;
- (f) cultural, recreational, and institutional uses secured to the city's satisfaction for public use and benefit; and
- (g) trellises and other garden structures which support the use of intensive green roofs and urban agriculture.

6.7 The use of floor space excluded under section 6.5 or 6.6 must not include any purpose other than that which justified the exclusion.

### **Building height**

7.1 In sub-area 1, the building height, measured above base surface, and to the top of the roof slab above the uppermost habitable floor excluding parapet wall must not exceed 30.48 m.

7.2 In sub-area 2, the building height, measured above base surface, and to the top of the roof slab above the uppermost habitable floor excluding parapet wall must not exceed 32.58 m.

7.3 In sub-area 3, the building height, measured above base surface, must not exceed 47 m.

7.4 Despite sections 7.1, 7.2, and 7.3, maximum building height does not include a mechanical penthouse, trellises, and other garden structures which support the use of intensive green roofs or urban agriculture, as provided by section 10.11 of the Zoning and Development By-law.

### **Setbacks**

8.1 The setback of a building must be at least 1.5 m from the rear property line on the lane.

8.2 The setback of a residential townhouse building must be at least 1.6 m from the property line on 1<sup>st</sup> Avenue.

8.3 The setback of a residential townhouse building in sub-area 1 must be at least 3.9 m from the east property on Ontario Street.

8.4 The setback of a residential townhouse building in sub-area 3 must be at least 2.4 m from the west property on Ontario Street.

### **Horizontal angle of daylight**

9.1 Each habitable room must have at least one window on an exterior wall of a building.

9.2 The location of each such exterior window must allow a plane or planes extending from the window and formed by an angle of 50 degrees, or two angles with a sum of 70 degrees, to encounter no obstruction over a distance of 24.0 m.

9.3 Measurement of the plane or planes referred to in section 9.2 must be horizontally from the centre of the bottom of each window.

9.4 If:

- (a) the Director of Planning or Development Permit Board first considers all the applicable policies and guidelines adopted by Council; and
- (b) the minimum distance of unobstructed view is not less than 3.7 m;

the Director of Planning or Development Permit Board may relax the horizontal angle of daylight requirement.

9.5 An obstruction referred to in section 9.2 means:

- (a) any part of the same building including permitted projections; or
- (b) the largest building permitted under the zoning on any site adjoining CD-1 (464).

9.6 A habitable room referred to in section 9.1 does not include:

- (a) a bathroom; or
- (b) a kitchen whose floor area is the lesser of:
  - (i) less than 10% of the total floor area of the dwelling unit, or
  - (ii) less than 9.3 m<sup>2</sup>.

### **Parking, loading, and bicycle spaces**

10. Any development or use of the site requires the provision and maintenance, in accordance with the requirements of, and relaxations, exemptions and mixed use reductions in, the Parking By-law, of off-street parking spaces, loading spaces, and bicycle spaces, all as defined under the Parking By-law.

### **Acoustics**

11. All development permit applications require evidence in the form of a report and recommendations prepared by a person trained in acoustics and current techniques of noise measurement, demonstrating that the noise levels in those portions of dwelling units listed below do not exceed the noise level set opposite such portions. For the purposes of this section, the noise level is the A-weighted 24-hour equivalent (Leq) sound level and is defined simply as noise level in decibels.

Portions of dwelling units	Noise levels (Decibels)
Bedrooms	35
Living, dining, recreation rooms	40
kitchen, bathrooms, hallways	45

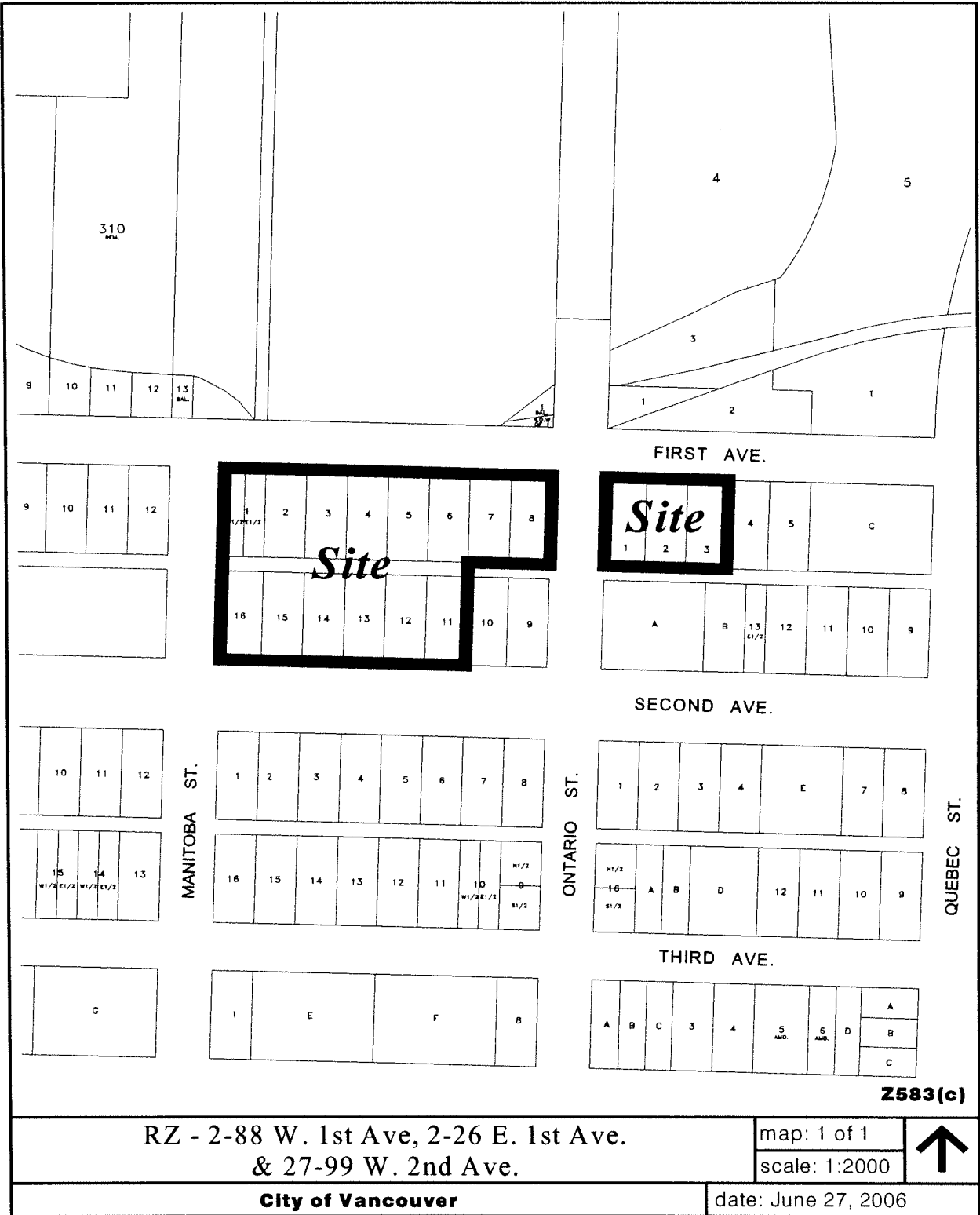
### **Severability**

12. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.





**Schedule A**



**RZ - 2-88 W. 1st Ave, 2-26 E. 1st Ave.  
& 27-99 W. 2nd Ave.**

map: 1 of 1  
scale: 1:2000



**City of Vancouver**

date: June 27, 2006

**Z583(c)**

**EXPLANATION****A By-law to amend the Sign By-law for 2 - 88 West 1<sup>st</sup> Avenue,  
2 - 26 East 1<sup>st</sup> Avenue, and 27 - 99 West 2<sup>nd</sup> Avenue**

After the public hearing on July 18, 2006, Council resolved to amend the Sign By-law for this site. The Director of Planning has advised that all prior-to conditions have been met, and enactment of the attached by-law will implement Council's resolution.

Director of Legal Services  
February 26, 2008

2 - 88 West 1<sup>st</sup> Avenue  
2 - 26 East 1<sup>st</sup> Avenue  
27 - 99 West 2<sup>nd</sup> Avenue



BY-LAW NO. \_\_\_\_\_

**A By-law to amend Sign By-law No. 6510**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. To Schedule E of the Sign By-law, Council adds:

“2 - 88 West 1<sup>st</sup> Avenue  
2 - 26 East 1<sup>st</sup> Avenue  
27 - 99 West 2<sup>nd</sup> Avenue

CD-1(464)

B (DD)”

2. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**EXPLANATION****Noise Control By-law amending by-law  
re 140 West 1<sup>st</sup> Avenue**

This amendment, approved by Council on September 26, 2006, adds 140 West 1<sup>st</sup> Avenue (formerly known as 102 - 160 West 1<sup>st</sup> Avenue) to the Noise Control By-law.

Director of Legal Services  
February 26, 2008

140 West 1<sup>st</sup> Avenue



BY-LAW NO. \_\_\_\_\_

**A By-law to amend  
Noise Control By-law No. 6555**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. To Schedule B of By-law No. 6555, at the end, Council adds:  
"462                                  9594                                  140 West 1<sup>st</sup> Avenue".
2. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this                  day of                                  , 2008

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**EXPLANATION****Authorization to enter into a  
Heritage Revitalization Agreement  
amending agreement with  
the owner of 53 West Hastings Street**

On February 12, 2008, Council resolved to enter into a by-law to authorize an amending agreement with the owner of the property at 53 West Hastings Street pursuant to Section 592 of the Vancouver Charter. The Director of Planning has advised that there are no prior-to conditions, and enactment of the attached by-law will implement Council's resolution.

Director of Legal Services  
February 26, 2008

53 West Hastings Street



BY-LAW NO. \_\_\_\_\_

**A By-law to authorize Council entering into a  
Heritage Revitalization Agreement amending agreement  
with the Owner of Heritage Property**

**PREAMBLE**

Council has authority under the *Vancouver Charter* to enter into a heritage revitalization agreement with the owner of heritage property including terms and conditions to which Council and the owner may agree.

Certain property bearing the civic address of 53 West Hastings Street, and the following legal description:

Parcel Identifier: 015-713-130  
Lot 11, except the East 30 feet,  
Block 3  
Old Granville Townsite  
Plan 168

contains a heritage building.

Council and the owner of the property entered into a heritage revitalization agreement ("HRA") regarding the property which Council approved by By-law No. 9425 to which Council attached the HRA.

Council and the owner have agreed to amend the HRA.

NOW THEREFORE THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. Council authorizes the City to enter into an HRA amending agreement with the owner in substantially the form and substance of the amending agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the amending agreement on behalf of the City and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.



2. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this                      day of                      , 2008

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

THIS HERITAGE REVITALIZATION AMENDMENT AGREEMENT (this "Amendment Agreement") is dated for reference the 25th day of January, 2008, and entered into by and

BETWEEN:

**SALIENT DEVELOPMENTS (PARIS) LTD.**  
Suite 6, Goalers Mews, 209 Carrall Street  
Vancouver, British Columbia  
V6B 4K7  
(the "Owner")

AND:

**CITY OF VANCOUVER,**  
453 West 12th Avenue,  
Vancouver, British Columbia,  
V5Y 1V4  
(the "City")

WHEREAS:

A. The Owner is the registered owner of all and singular those certain parcels or tracts of land and premises situate in the City of Vancouver, in the Province of British Columbia, legally described as:

City of Vancouver  
Parcel Identifier: 015-713-130  
Lot 11, Except the East 30 Feet,  
Block 3  
Old Granville Townsite  
Plan 168  
(the "Paris Block Lands");

City of Vancouver  
Parcel Identifier: 012-609-013  
The East 30 Feet of Lot 11  
Block 3, Old Granville Townsite  
Plan 168  
(the "Annex Lands");

(the Paris Block Lands and the Annex Lands, collectively the "Lands");

B. The Paris Block Lands and the Annex Lands are adjacent to each other, and are within the DD (sub-area C2) District of the City's *Zoning and Development By-Law*;

C. The “Paris Block” building presently situate on the Paris Block Lands is listed in Category “B” on the Vancouver Heritage Register. In this Agreement the term “Heritage Building” means the “Paris Block” building;

D. Pursuant to development permit application DE 410397 (development permit application DE 410397 together with all development permits issued pursuant thereto and all amendments, modifications and replacements thereof are collectively called the “**Paris Block Development Permit**”) the Owner proposed to rehabilitate and upgrade the Heritage Building, and the City approved such proposal and enacted By-Law No. 9425 authorizing the entering into of a Heritage Revitalization Agreement (the “**HRA**”) in respect of same; and

E. The Owner subsequently acquired the Annex Lands, which the Owner intends to consolidate with the Paris Block Lands into a single legal lot, and on which Annex Lands the Owner proposes to construct a new six storey mixed-use building that will be integrated into and share a common elevator and internal staircase with the Paris Block, as contemplated by development permit application DE411639 (development permit application DE411639 together with all development permits issued pursuant thereto and all amendments, modifications and replacements thereof, are collectively called the “**Annex Development Permit**”);

F. The development contemplated by the combination of the Paris Block Development Permit and the Annex Development Permit is substantially different from the development contemplated by the Paris Block Development Permit and approved by By-Law No. 9425, resulting in an amendment of the HRA and By-Law No. 9425 being required to accurately reflect the new form of development now contemplated for the Lands; and

G. Pursuant to Section 592(4) of the *Vancouver Charter*, a heritage revitalization agreement may only be amended by by-law with the consent of the owner, and the Owner has so consented on the terms and conditions set forth in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the sum of Ten Dollars (\$10.00) now paid by the City to the Owner and for other good and valuable consideration (the receipt and sufficiency of which the Owner hereby acknowledges) the Owner and the City each agree with the other pursuant to the *Vancouver Charter* as follows:

1. The HRA is hereby amended to require the Owner to develop the Lands as contemplated by both the Paris Block Development Permit and the Annex Development Permit, notwithstanding Section 1 of the HRA.
2. The variations to the DD (sub-area C2) District Schedule of the City’s *Zoning and Development Bylaw* effected by Sections 3 and 4 of the HRA will continue to apply but only to the Heritage Building and to that portion of the Lands that is comprised of the Paris Block Lands, notwithstanding the consolidation of the Paris Block Lands with the Annex Lands.
3. All other terms and conditions of the HRA will remain unchanged by this Amendment Agreement.

4. The City shall not be obliged to issue any permit or give any permission contrary to the terms of this Amendment Agreement or the HRA as amended by this Amendment Agreement. The City may enforce this Amendment Agreement by mandatory and prohibitory injunctions. In any action to enforce this Amendment Agreement the City shall, if successful, be entitled to court costs on a solicitor and own client basis.

5. The Owner hereby releases and discharges the City and its officials, employees, contractors, agents and licensees (collectively, "City Personnel"), and covenants and agrees to indemnify and save harmless the City and all City Personnel, from and against all damages, losses, costs, fines, penalties, actions, causes of action, suits, statutory or other proceedings, claims, orders, judgments, demands, builders' liens, liabilities, obligations, expenses (including legal expenses), indirect or consequential damages (including loss of profits and loss of use and damages arising out of delays) and other costs (both direct and indirect) which may arise or accrue to the Owner or any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to arising out of or in any way connected with:

- (a) the City issuing or withholding any permits or approvals under or in connection with the matters contemplated by this Amendment Agreement (even if the Owner has otherwise complied with all permit requirements);
- (b) reviewing, accepting or approving the design, specifications, materials and methods for construction of the annex to be constructed on the Annex Lands or the renovations to be effected to the Heritage Building;
- (c) the City exercising any of its rights pursuant to this Amendment Agreement or the HRA as amended by this Amendment Agreement; or
- (d) this Amendment Agreement, except to the extent of any default of the City hereunder.

The release and indemnity set out in this Section 5 shall survive the expiration or earlier termination of this Amendment Agreement.

6. Nothing contained or implied in this Amendment Agreement will derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter* as amended from time to time and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Amendment Agreement had not been executed and delivered by the Owner and the City.

7. Any notice, approval, consent, request, confirmation, or demand required or permitted under this Amendment Agreement must be in writing, and the sender must deliver it by prepaid registered mail from any post office in British Columbia, by fax or by personal service addressed to the City as follows:

City of Vancouver  
 453 West 12th Avenue  
 Vancouver, British Columbia  
 V5Y 1V4  
 Fax: 604-871-6119  
Attention: Director of Current Planning c/o Heritage Group

with a copy to:

City of Vancouver  
 453 West 12th Avenue  
 Vancouver, British Columbia  
 V5Y 1V4  
 Fax: 604-873-7445  
Attention: Director of Legal Services

or to the Company as follows:

Salient Developments (Paris) Ltd.  
 Suite 6, Goalers Mews, 209 Carrall Street  
 Vancouver, British Columbia  
 V6B 4K7  
 Fax: 604-669-5574  
Attention: Robert Fung

or to such other address or fax number in the Province of British Columbia of which either party may notify the other according to the requirements of this Section 7. Service will be deemed complete, if made by registered mail seventy-two (72) hours after the date and hour of mailing; if made by faxed transmission, on the first business day after the date of transmission; and if made by personal service, upon the effecting of such service.

8. This Amendment Agreement continues in full force and effect until such time, if ever, as it may be lawfully ended.

9. No alleged waiver of any breach of this Amendment Agreement is effective unless it is an express waiver in writing of the breach in respect of which it is asserted against the party alleged to have given the waiver. No waiver by the City or the Owner of any breach of this Amendment Agreement operates as a waiver of any other breach of this Amendment Agreement.

10. If any term of this Amendment Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that term is to be considered to have been severed from the rest of this Amendment Agreement and the rest of this Amendment Agreement remains in force unaffected by that holding or by the severance of that term.

11. The Owner hereby agrees to execute such further documents and assurances as are required to carry out and more fully effect the intent of this Amendment Agreement.

12. If the Lands are subdivided by way of a strata plan:

- (a) this Amendment Agreement (or notice of this Amendment Agreement by legal notation) shall charge each strata lot and shall be noted on the common property sheet of the strata corporation;
- (b) the strata corporation or strata corporations so created shall be responsible for the performance and observance of the Owner's covenants and obligations herein at the expense of the strata lot owner; and
- (c) the liability of each strata lot owner for the performance and observance of the Owner's covenants and obligations herein shall be in proportion to the unit entitlement of his, hers or its strata lot as established by the strata plan and shall be treated as a common expense and all strata lot owners shall contribute to such costs in proportion to their unit entitlement.

13. This Amendment Agreement shall enure to the benefit of and be binding upon the Owner and its successors and trustees and this Amendment Agreement shall enure to the benefit of and be binding upon the City and its successors and assigns and this Amendment Agreement (or notice of this Agreement by legal notation) shall charge and run with the Lands and enure to the benefit of and be binding upon the owners from time to time of the Lands and all parties claiming through such owners and their respective heirs, executors, administrators, trustees and successors.

14. Words herein importing the singular number or the masculine gender only shall include more persons, parties or things of the same kind than one, and females or corporations as well as males, and the converse whenever the context requires.

IN WITNESS WHEREOF the parties have signed these presents as hereunder shown:

Execution Date

Y      M      D

Officer:

Party:

**SALIENT DEVELOPMENTS (PARIS)  
LTD.** by its authorized signatories:

\_\_\_\_\_  
(as to both signatures)      08

\_\_\_\_\_  
Sign & Print Name:

\_\_\_\_\_  
Sign & Print Name:

**CITY OF VANCOUVER** by its  
Authorized Signatory:

\_\_\_\_\_  
Stephen Hayward, Solicitor  
453 West 12<sup>th</sup> Avenue  
Vancouver BC V5Y 1V4  
Tel: 604-871-7714      08

\_\_\_\_\_  
Frances J. Connell/Graham P. Johnsen

**PRIORITY AGREEMENT**

**MEMORANDUM AS TO ENCUMBRANCES, LIENS AND INTERESTS**

**CITIZENS BANK OF CANADA (the "Chargeholder")**  
Holder of Mortgage BB533587 and Assignment of Rents BB533588 (collectively, the "Charge")  
charging Lot 11, Except the East 30 Feet, Block 3 Old Granville Townsite Plan 168  
(the " Paris Block Lands")

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed to by the Chargeholder, the Chargeholder, being the holder of the Charge, hereby approves, joins in and consents to the granting of the Heritage Revitalization Amendment Agreement (the "Encumbrance") attached, and consents and agrees that the Encumbrance shall be binding upon the Chargeholder's interest in or charge upon the Paris Block Lands and shall be an encumbrance upon the Paris Block Lands in priority to the Charge in the same manner and to the same effect as if the Encumbrance had been granted and registered against title to the Paris Block Lands prior to the dating, execution and registration of the Charge and the advance of any monies thereunder.

Execution Date  
Y    M    D

Officer:

Party:

CITIZENS BANK OF CANADA  
by its Authorized Signatories:

\_\_\_\_\_  
(as to both signatures)

08

\_\_\_\_\_  
Sign & Print Name:

\_\_\_\_\_  
Sign & Print Name:



**PRIORITY AGREEMENT**

**MEMORANDUM AS TO ENCUMBRANCES, LIENS AND INTERESTS**

**BCC MORTGAGE INVESTMENT CORP. (the "Chargeholder")  
Holder of Mortgage BB275779 and Assignment of Rents BB275780 (collectively, the "Charge")  
charging Lot 11, Except the East 30 Feet, Block 3 Old Granville Townsite Plan 168  
(the "Paris Block Lands")**

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed to by the Chargeholder, the Chargeholder, being the holder of the Charge, hereby approves, joins in and consents to the granting of the Heritage Revitalization Amendment Agreement (the "Encumbrance") attached, and consents and agrees that the Encumbrance shall be binding upon the Chargeholder's interest in or charge upon the Paris Block Lands and shall be an encumbrance upon the Paris Block Lands in priority to the Charge in the same manner and to the same effect as if the Encumbrance had been granted and registered against title to the Paris Block Lands prior to the dating, execution and registration of the Charge and the advance of any monies thereunder.

Execution Date

Y      M      D

Officer:

Party:

**BCC MORTGAGE INVESTMENT  
CORP. by its Authorized  
Signatories:**

\_\_\_\_\_ 08  
(as to both signatures)

\_\_\_\_\_  
Sign & Print Name:

\_\_\_\_\_  
Sign & Print Name:

**PRIORITY AGREEMENT**

**MEMORANDUM AS TO ENCUMBRANCES, LIENS AND INTERESTS**

**GULF AND FRASER FISHERMEN'S CREDIT UNION (the "Chargeholder")**  
Holder of Mortgage BB93096 and Assignment of Rents BB93097 (collectively, the "Charge")  
charging the East 30 Feet of Lot 11, Block 3 Old Granville Townsite Plan 168  
(the "Annex Lands")

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed to by the Chargeholder, the Chargeholder, being the holder of the Charge, hereby approves, joins in and consents to the granting of the Heritage Revitalization Amendment Agreement (the "Encumbrance") attached, and consents and agrees that the Encumbrance shall be binding upon the Chargeholder's interest in or charge upon the Annex Lands and shall be an encumbrance upon the Annex Lands in priority to the Charge in the same manner and to the same effect as if the Encumbrance had been granted and registered against title to the Annex Lands prior to the dating, execution and registration of the Charge and the advance of any monies thereunder.

Execution Date  
Y      M      D

Officer:

Party:

**GULF AND FRASER  
FISHERMEN'S CREDIT UNION**  
by its Authorized Signatories:

\_\_\_\_\_ 08  
(as to both signatures)

\_\_\_\_\_  
Sign & Print Name:

\_\_\_\_\_  
Sign & Print Name:

**PRIORITY AGREEMENT**

**MEMORANDUM AS TO ENCUMBRANCES, LIENS AND INTERESTS**

**COOPER PACIFIC II MORTGAGE INVESTMENT CORPORATION (the "Chargeholder")  
Holder of Mortgage CA460823 and Assignment of Rents CA460824 (collectively, the "Charge")  
charging the East 30 Feet of Lot 11, Block 3 Old Granville Townsite Plan 168  
(the "Annex Lands")**

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed to by the Chargeholder, the Chargeholder, being the holder of the Charge, hereby approves, joins in and consents to the granting of the Heritage Revitalization Amendment Agreement (the "Encumbrance") attached, and consents and agrees that the Encumbrance shall be binding upon the Chargeholder's interest in or charge upon the Annex Lands and shall be an encumbrance upon the Annex Lands in priority to the Charge in the same manner and to the same effect as if the Encumbrance had been granted and registered against title to the Annex Lands prior to the dating, execution and registration of the Charge and the advance of any monies thereunder.

Execution Date  
Y    M    D

Officer:

Party:

**COOPER PACIFIC II  
MORTGAGE INVESTMENT  
CORPORATION by its  
Authorized Signatories:**

\_\_\_\_\_  
(as to both signatures)

08

\_\_\_\_\_  
Sign & Print Name:

\_\_\_\_\_  
Sign & Print Name:

**END OF DOCUMENT**

## EXPLANATION

**Authorization to enter into a  
Heritage Revitalization Agreement  
with the owner of 265 Carrall Street**

After the public hearing on February 12, 2008, Council resolved to enter into a by-law to authorize an agreement with the owner of the property at 265 Carrall Street pursuant to Section 592 of the Vancouver Charter. The Director of Planning has advised that any prior-to conditions are complete, and enactment of the attached by-law will implement Council's resolution.

Director of Legal Services  
February 26, 2008

265 Carrall Street



BY-LAW NO. \_\_\_\_\_

**A By-law to authorize Council entering into a  
Heritage Revitalization Agreement  
with the Owner of Heritage Property**

**PREAMBLE**

Council has authority under the *Vancouver Charter* to enter into a heritage revitalization agreement with the owner of heritage properties including terms and conditions to which Council and the owner may agree.

Certain properties bearing the civic address of 265 Carrall Street, and the following legal description:

Parcel Identifier: 009-354-492

Lot B

Parcel Identifier: 015-713-351

The East 26 Feet of Lot 14

Both of:

Block 2

OGT

Plan 10753

contain a heritage building.

Council is of the opinion that the building has sufficient heritage value to justify its conservation, and Council and the owner of the properties have agreed to facilitate conservation of the building by agreeing to the terms and conditions set out in the attached heritage revitalization agreement.



LAND TITLE ACT

**FORM C**

(Section 233)

Province of British Columbia

**GENERAL INSTRUMENT - PART 1**

(This area for Land Title Office Use)

Page 1 of 15 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

Jim Blair

City of Vancouver Law Department

453 West 12th Avenue

Vancouver, B.C., V5Y 1V4

Phone 873-7514 (BTQ/mk) Client No. 10647

\_\_\_\_\_  
Signature of Agent

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:\*

(PID)

(LEGAL DESCRIPTION)

009-354-492

Lot B Block 2 Old Granville Townsite Plan 10753

015-713-351

The East 26 Feet of Lot 14 Block 2 Old Granville Townsite Plan 168

3. NATURE OF INTEREST:\*

DESCRIPTION

DOCUMENT REFERENCE  
(page and paragraph)

PERSON ENTITLED TO  
INTEREST

SEE SCHEDULE

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

[ ] D.F. No.

(b) Express Charge Terms

[XX] Annexed as Part 2

(c) Release

[ ] There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharge as a charge on the land described in Item 2.

5. TRANSFEROR(S):\*

**KING TIGER INVESTMENTS LTD.**, Incorporation No. 723255

5316 Marine Drive, West Vancouver, British Columbia V7X 2P6

**CTC BANK OF CANADA** (as to Priority)

6. TRANSFEREE(S):\* (including postal address(es) and postal code(s))\*

**CITY OF VANCOUVER**, 453 West 12th Avenue, Vancouver, B.C., V5Y 1V4

7. ADDITIONAL OR MODIFIED TERMS:\*

N/A

8. EXECUTION(S):\*\* This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)	Execution Date			Party(ies) Signature(s)
	Y	M	D	
_____				<b>KING TIGER INVESTMENTS LTD.</b> by its authorized signatory(ies)
(Solicitor)				Print Name: _____
_____				Print Name: _____
(Solicitor)				<b>CTC BANK OF CANADA</b> , by its authorized signatory(ies)
_____				Print Name: _____
Print Name: _____				
<b>Bruce T. Quayle</b> Barrister and Solicitor 453 West 12 <sup>th</sup> Avenue Vancouver, BC V5Y 1V4 Tel: 604-873-6545	_____	<b>CITY OF VANCOUVER</b> by its authorized signatory:		
	_____	Frances J. Connell/Graham P. Johnsen		

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

\* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

\*\* If space insufficient, continue executions on additional page(s) in Form D.



**LAND TITLE ACT  
Form E**

**SCHEDULE**

---

Enter The Required Information in the same order as the information must appear on the Freehold Transfer Form, Mortgage Form or General Document Form

---

**3. NATURE OF INTEREST:\***

DESCRIPTION	DOCUMENT REFERENCE (page and paragraph)	PERSON ENTITLED TO INTEREST
Section 219 Covenant	Pages 7 - 8, Article 2	Transferee
Priority Agreement granting the above Section 219 Covenant priority over Mortgage BB516560 and Assignment of Rents BB516561	Page 15	Transferee
Section 219 Covenant	Pages 8 - 10, Article 4	Transferee
Priority Agreement granting the above Section 219 Covenant priority over Mortgage BB516560 and Assignment of Rents BB516561	Page 15	Transferee
Statutory Right of Way	Page 11 - 12, Article 6	Transferee
Priority Agreement granting the above Statutory Right of Way priority over Mortgage BB516560 and Assignment of Rents BB516561	Page 15	Transferee
Equitable Charge	Page 12, Article 7	Transferee
Priority Agreement granting the above Equitable Charge priority over Mortgage BB516560 and Assignment of Rents BB516561	Page 15	Transferee

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## TERMS OF INSTRUMENT - PART 2

### Heritage Revitalization Agreement - 265 Carrall Street

**WHEREAS:**

A. The Transferor (the “Owner” (as further defined herein)) is the registered owner of the following lands and premises:

PID: 009-354-492

Lot B Block 2 Old Granville Townsite Plan 10753

and

PID: 015-713-351

The East 26 Feet of Lot 14 Block2 Old Granville Townsite Plan 168

(together, the “Lands”)

B. There is situated on the Lands a building, known as the Boulder Hotel (the “Building”), which is designated as a protected heritage building and listed in Category B on the Vancouver Heritage Register.

C. Pursuant to development permit application DE410844 (the “DP Application”), the Owner has applied to the City for permission to redevelop the Lands:

- (i) by rehabilitating Building, in exchange for, among other things, the removal thereof from the City’s *Single Room Accommodation Bylaw* and the assignment to the Lands of a heritage density bonus grant of 61,825 square feet to be transferred for use off-site in accordance with the City’s policy on Transfer of Density; and
- (ii) by consolidating the Lands and constructing, at its westerly side facing Cordova St., a seven story addition to the Building and, on top of the Building, a two story addition, to create a mixed-use building containing 23 residential units and, at ground level, 3 retail units.

D. The City will permit the foregoing proposal, subject to a number of conditions, including, without limitation, that certain heritage features of the Building are to be rehabilitated in a timely fashion and thereafter preserved and maintained at the Owner’s expense.

E. Pursuant to Section 592 of the *Vancouver Charter S.B.C. 1953, c.55*, a heritage revitalization agreement may, among other things, vary or supplement provisions of a subdivision by-law, a zoning by-law, a development cost levy by-law, a development permit and a heritage alteration permit, and may include such other terms and conditions as the City’s Council and the Owner may agree.

THEREFORE in consideration of the sum of ten dollars (\$10.00) now paid by the City to the Owner and for other good and valuable consideration passing from the City to the Owner (the receipt and sufficiency of which the Owner hereby acknowledges) and, where applicable, pursuant to Section 592 of the *Vancouver Charter S.B.C. 1953, c.55* the parties agree as follows:

**ARTICLE 1  
DEFINITIONS AND INTERPRETATION**

1.1 Definitions. The terms defined in this Section 1.1 will, unless otherwise specifically provided for in this Agreement (as defined below), have the following meanings:

- (a) **“Addition”** means the two storey addition to the Building to be carried out pursuant to the DP Application;
- (b) **“Building”** means the Building as defined in Recital B above and includes, without limitation, all permitted replacements thereof and therein and additions thereto; and
- (c) **“Building By-law”** means the City of Vancouver Building By-law No. 9419 of 2007, as varied or supplemented from time to time, and includes its successor building by-law to the extent the same is or may be applicable;
- (d) **“Building’s Heritage Features”** means:
  - (i) the Building’s two principal, exterior, stone heritage facades, which face Cordova and Carrall Streets;
  - (ii) the documented 1938 appearance of the Building’s wood windows and storefronts;
  - (iii) some of the Building’s interior finishing features, including, without limitation, newel posts, stair balusters, door trims and coronets, wainscoting, shutters and hardware;
- (e) **“City”** means the municipal corporation continued pursuant to the *Vancouver Charter*, and **“City of Vancouver”** means the geographic location;
- (f) **“Consultant”** means the Owner’s heritage consultant who will be a registered architect or professional engineer in good standing and who will have substantial experience in heritage rehabilitation work;
- (g) **“Development Permit”** is the City Development Permit issued pursuant to the DP Application;
- (h) **“DP Application”** has the meaning given in Recital C above;
- (i) **“Effective Date”** means the date that this Agreement is executed by the City;

- (j) **“Floor Space”** means the buildable (or built) area of a development calculated, if the Zoning and Development By-laws contain a method of measurement of floor space, in accordance with such method, taking into account any inclusions required and exclusions allowed under the Zoning and Development By-laws;
- (k) **“Land Title Act”** means the *Land Title Act*, R.S.B.C. 1996, c.250, as amended from time to time and any and all replacements thereof or any statute enacted in substitution thereof and all regulations applicable thereto and any amendments, replacements and substitutions thereof;
- (l) **“Lands”** has the meaning given in Recital A above and includes, without limitation, any and all parcels into which they are consolidated and/or, whether by strata plan or otherwise, subdivided;
- (m) **“Owner”** means the registered owner of the Lands as of the Effective Date and all of his, her or its assigns, successors and successors in title to the Lands;
- (n) **“Transferable Density”** means the additional development rights of 61,825 square feet of floor space that, subject to the terms and conditions of this Agreement and the Development Permit, have been or will be assigned by the City to the Lands;
- (o) **“Zoning and Development By-laws”** means those of the by-laws of the City that from time to time regulate the use and development of land in the City of Vancouver, including, without limitation, with respect to allowable density and floor space ratios, and are applicable to the Lands and to every part into which the Lands may be subdivided, including, without limitation, the City’s Zoning and Development By-Law No. 3575.

1.2 **Headings.** The division of this Agreement into Articles, Sections and Paragraphs and the insertion of headings is for the convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Recitals, Articles, Sections or Paragraphs are to Recitals, Articles, Sections or Paragraphs of this Agreement.

1.3 **Number.** Words importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

1.4 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

**ARTICLE 2  
REHABILITATION OF BUILDING**

2.1 Pursuant to *Vancouver Charter S.B.C. 1953, c.55* and Section 219 of the *Land Title Act*, the Owner covenants to and agrees with the City, as a covenant running with, charging and binding the Lands, that the Owner, at its expense:

- (a) will rehabilitate and restore the Building in a timely fashion to the City's satisfaction in accordance with the Development Permit, including, without limitation:
  - (i) seismic upgrading of the Building so that it meets the new building, structural requirements of the Vancouver Building By-law; and
  - (ii) rehabilitation, restoration and replication of the Building's Heritage Features as required by the Development Permit;
- (b) will ensure that the Consultant supervises in all respects the required rehabilitation of the Building's Heritage Features;
- (c) will secure the Building from vandalism and occupation by squatters, to the City's satisfaction, at all times during its rehabilitation under this agreement;
- (d) will obtain and keep, to the City's satisfaction, insurance for the Building, so that it is insured to full replacement value against all perils, including, without limitation, earthquake, at all times during and after the rehabilitation thereof;
- (e) will deliver to the City, once the rehabilitation of the Building as required hereby is complete, a signed statement from the Consultant (in form and contents satisfactory to the City) confirming that the rehabilitation thereof has been fully completed as required;
- (f) until the rehabilitation of the Building as required hereby is completed to the City's satisfaction, will not and will not suffer or permit any other person to use or occupy the Building or any part thereof or any other structure on the Lands until the City has issued an occupancy permit therefor, and the Owner will not and will not permit any other person to apply for or take any action to compel the City to issue an occupancy permit for the Building or any part thereof or any part of any other structure on the Lands until the rehabilitation of the Building as required hereby is completed to the City's satisfaction, and the Owner agrees that the City will be under no obligation to issue an occupancy permit for the Building or any part thereof or any part of any other structure on the Lands until the rehabilitation of the Building as required hereby is completed to the City's satisfaction, notwithstanding that all other conditions and City by-law requirements in respect thereof may have been fulfilled, except that prior to the City issuing a demolition and/or building permit in respect of the work contemplated by the Development Permit and the commencement of such any such work, the Owner and/or persons

authorized by the Owner may use and occupy the ground floor level of the Building, provided such use and occupancy is otherwise lawful in all respects; and

- (g) will not transfer any of his, her or its ownership interest in the Lands without the prior written consent of the City.

### ARTICLE 3 FAÇADE GRANT

3.1 Subject to set-off of any amounts the Owner may owe to the City for any unsatisfied obligations of the Owner pursuant to this agreement or the Development Permit, the City will pay to the Owner, in relation to the rehabilitation of the Building's two principal facades, a façade grant in the amount of one hundred thousand dollars (\$100,000.00):

- (a) upon the completion of the rehabilitation and restoration of the Building in accordance with this agreement and the Development Permit;
- (b) upon the City's Director of Planning having received a signed statement from the Consultant confirming that the rehabilitation and restoration of the two principal heritage façades on the Building is complete;
- (c) upon the City issuing an occupancy permit for full occupancy of the Building as redeveloped pursuant to the Development Permit;
- (d) if all obligations of the Owner to the City pursuant to this Agreement, the HRA and the Development Permit have, in the opinion of the City, been fully satisfied;
- (e) if the Owner is not then in arrears of property taxes in respect of the Lands; and
- (f) if the Owner has complied with all City policies regarding the rehabilitation of Building's heritage façades.

### ARTICLE 4 HERITAGE PRESERVATION AND PROTECTION

4.1 Pursuant to Section 592 of the *Vancouver Charter* and, for subsections (a), (b), (c), (f) and (i) below, pursuant to Section 219 of the *Land Title Act*, the Owner covenants to and agrees with the City, as a covenant running with, charging and binding the Lands, that at all times after completion of the Building's rehabilitation as required by this agreement:

- (a) the Owner will preserve, protect, maintain and keep the Building, including, without limitation, the Building's Heritage Features, in good condition in all respects as would a reasonable and prudent owner;
- (b) the Owner will not alter the exterior, make structural changes, or renovate or reconfigure the Building (or any part thereof) in any way, except as may be

permitted by this agreement, the Development Permit or a heritage alteration permit issued by the City;

- (c) if the Building is ever damaged in any way, the Owner, at his, her or its expense, unless it is unlawful or uneconomic to do so, will repair it and restore its appearance as necessary to put it back into the condition and appearance it was in prior to the damage;
- (d) in any determination as to whether it is uneconomic to repair the Building in such circumstances, only land economic factors will be considered, including, without limitation, the cost of repair, the cost of the replacement building contemplated below and the fact that heritage incentives (including the Transferable Density) have been granted in respect of the Building;
- (e) if the Owner and the City cannot agree on whether it is economic to repair the Building in such circumstances, the matter will be determined by arbitration pursuant to Section 4.1(g);
- (f) if the Owner and the City agree or if an arbitrator(s) determines that it is uneconomic to repair the Building, the Owner will not be obligated to repair the Building but will be restricted to building on the Lands a building of similar form, massing, quality of materials, detailing and height as the original Heritage Building and the City will, at the Owner's expense, execute and deliver an amendment, and to the extent applicable a partial discharge, of this Agreement to reflect such change in circumstances;
- (g) all disputes arising from Section 4.1(e) will be determined by arbitration in the manner set out in this Section 4.1(g). Within thirty (30) days following written notice of the dispute by either party to the other, such dispute will be referred to a single arbitrator to be chosen by the Owner and the City; provided that if the Owner and the City do not agree as to the choice of a single arbitrator, then by three (3) arbitrators, one (1) of whom will be chosen by the Owner, one (1) of whom will be chosen by the City and the third by the two (2) so chosen, and the third arbitrator so chosen will be the chairman. Decisions will be made by the majority of the arbitrators. If within fifteen (15) days or such extended time as the parties may agree upon, a party who has been notified of a dispute fails to appoint an arbitrator or the two (2) arbitrators appointed by the parties do not agree upon a third arbitrator, then the party or parties not in default may apply to the British Columbia International Commercial Arbitration Centre or, if it or a successor thereto does not exist at such time, to a Judge of the Supreme Court of British Columbia for the appointment of an arbitrator to represent the party or parties in default or a third arbitrator or both of such arbitrators. The costs of the reference and award will be in the discretion of the arbitrators who may direct to and by whom and in what manner those costs or any part thereof will be paid, and may tax or settle the amount of costs to be so paid or any part thereof and may award costs to be paid as between solicitor and client. Except as to matters

otherwise provided herein, the provisions of the *Commercial Arbitration Act* (British Columbia), as amended or re-enacted from time to time, will apply;

- (h) the by-law variations effected by and the other benefits granted to the Owner in relation to this agreement are full and fair compensation for the obligations and restrictions placed upon the Owner by this agreement, and the Owner waives and renounces all claims for further or other compensation by reason of this agreement; and
- (i) the City, at its cost, may affix a commemorative plaque to the Building and the Owner will not at anytime thereafter do anything to obscure, deface or remove same.

## ARTICLE 5 TRANSFERABLE DENSITY AND BY-LAW VARIATION

5.1 The HA - 2 District Schedule of the City's Zoning and Development By-Law No. 3575 is hereby varied in respect of the Lands, but only the Lands:

- (a) by assigning the Transferable Density to the Lands; and
- (b) to permit a building height of 78 feet on the Lands in accordance with the Development Permit.

5.2 The Owner's use of the Transferable Density will be subject to all City policies from time to time governing the use and transfer of transferable density and subject to the following:

- (a) the Transferable Density will not be used on the Lands;
- (b) any transfer of any of the Transferable Density will be restricted to locations identified within the City's Transfer of Density Policy only; and
- (c) except as otherwise provided for herein, none of the Transferable Density may be transferred to any other lands until the rehabilitation of the Building as required hereby is complete and an occupancy permit for full occupancy of the Building has been issued.

5.3 Notwithstanding the foregoing, the Owner will be permitted to transfer some or all of the Transferable Density before the rehabilitation of the Building pursuant to this agreement is complete and an occupancy permit for the Building has been issued, if, to the City's satisfaction, all of the following conditions have been met:

- (a) this agreement has been fully registered in the Land Title Office in the manner set out in the agreement;



- (b) the Development Permit and a building permit for the rehabilitation of the Building as required hereby have been issued to the Owner by the City;
- (c) the Owner has provided to the City a letter of credit in the amount equal to the lesser of:
  - (i) one hundred and twenty percent (120%) of the then estimated cost to complete the rehabilitation of the Building as required hereby (such estimated cost to be made by the Consultant and the Owner's quantity surveyor and explicitly accepted in writing by the City); or
  - (ii) three million ninety one thousand two hundred and fifty dollars (\$3,091,250.00) (the value of the Transferable Density at \$50 per sq. ft.);
- (d) the Owner has complied with all of the City's policies and procedures with respect to transfer of Transferable Density; and
- (e) the Owner is not at the time of transfer in breach of any of its obligations to the City set out in this agreement or any other agreement between the City and the Owner with respect to the Lands.

5.4 All letters of credit required by this Agreement will be issued by a Schedule I Canadian chartered bank and will be unconditional, irrevocable and self-renewing and otherwise in a form and content which is acceptable to the City. Further, all letters of credit will be provided for a period of one (1) year with a provision for an automatic renewal or extension without amendment from year to year until the Owner has, to the City's full satisfaction, completed all of its obligations under this Agreement. The City may call upon the letter of credit and apply the proceeds there from as the City sees fit if:

- (a) the bank issuing the letter of credit refuses to extend or renew the expiry date of the letter of credit;
- (b) the Owner becomes insolvent or commits any acts of bankruptcy or becomes bankrupt or takes the benefit of any act or legislation that may be enforced for bankrupts or insolvent debtors;
- (c) the Owner is not carrying out or has not carried out the rehabilitation of the Building pursuant to this agreement in a manner satisfactory to the City;
- (d) the City undertakes all or any part of the rehabilitation of the Building pursuant to this agreement; and/or
- (e) the Owner is in breach of any of its obligations under this agreement.

**ARTICLE 6  
STATUTORY RIGHT OF WAY**

6.1 Pursuant to Section 218 of the *Land Title Act*, the Owner hereby grants to the City a statutory right of way to enter and be upon the Lands, and in the event that the Owner is in default of any of its obligations under this Agreement, to undertake and diligently prosecute to conclusion the rehabilitation of and to preserve, protect, maintain, repair and/or replace the Building, if the City should at any time choose to do so; provided, however, that nothing herein obligates the City to conduct the rehabilitation of the Building, or any part thereof, or to preserve, protect, maintain, repair and/or replace the Building.

6.2 In the event that the City enters upon the Lands to conduct all, or any part, of the rehabilitation of the Building or any other work contemplated by Section 6.1:

- (a) there will be no express or implied warranties as to the quality of such rehabilitation work or any other work contemplated by Section 6.1 or the suitability of the materials for the purposes for which they are put; and
- (b) the Owner will pay to the City the costs incurred by the City in undertaking such rehabilitation work or any part thereof, and any other work contemplated by Section 6.1, plus twenty percent (20%) of such costs as fair compensation for the City's administrative costs.

6.3 The statutory right of way set out in this Article 6 is necessary for the operation and maintenance of the City's undertaking.

**ARTICLE 7  
EQUITABLE CHARGE**

7.1 The Owner grants to the City an equitable charge over the Lands, which charge will run with, charge and bind the Lands, for the payment of all sums (including all interest thereon) which may at any time be payable by the Owner to the City under the terms of this agreement or otherwise at law and the provisions of this Article 7 will survive any termination of this agreement and continue to apply. This equitable charge may be enforced by the appointment of a receiver for the sale of the Lands.

**ARTICLE 8  
RELEASE AND INDEMNITY**

8.1 The Owner hereby releases, indemnifies and saves harmless the City and its officials, councillors, employees, contractors, agents and licensees (each, a "City Party" for the purposes of this Section 8.1), from and against all liabilities, actions, statutory or other proceedings, judgements, investigations, claims, losses, loss of profit, damages, consequential damages, fines, penalties, costs and legal costs on a solicitor own client basis (i) which the City or a City Party may suffer or incur, in the case of the indemnity contained herein, and (ii) which the Owner or its directors, officers, employees, contractors, agents or licencees may suffer or incur, in the case of the release contained herein, in each case, arising out of or in any way connected with:

- (a) the inability of the Owner to use, in whole or in part, any of the Transferable Density that may be used pursuant to this Agreement, whether such inability arises from the decision of the City's Development Permit Board, City Council, a court of competent jurisdiction or otherwise (other than where the decision of the City Party is patently malicious or capricious);
- (b) the City conducting all or any portion of the rehabilitation of the Building or any other work contemplated by this agreement;
- (c) the City withholding any permits (including, without limitation, an occupancy permit) under this agreement, until the Owner has fully complied with all requirements of the City in this agreement and otherwise applicable to the Lands;
- (d) this agreement, except to the extent the same arises directly and solely from a default of the City or a City Party hereunder;
- (e) any release of this agreement or the loss of any of the rights granted hereunder;
- (f) the non-compliance, if any, of the Lands, the Building or any part of either thereof with any City by-law; and
- (g) issuance of any development permit in respect of the Lands.

The releases and indemnities set out in this Article 8 will survive the expiration or earlier termination of this Agreement and will survive any modification, release or partial release of any of the covenants created by this Agreement. The releases and indemnities in this Article 8 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted hereby.

## **ARTICLE 9 GENERAL**

9.1 If the registered owner of the Lands will be more than one party, such parties will be jointly and severally liable to the City for the performance and observance of the Owner's obligations in this agreement.

9.2 Time is of the essence in all respects in relation to this agreement and any instance of waiver of that requirement will not be a waiver for all or any other purpose hereunder.

9.3 The Owner, at his, her or its expense, after execution of this agreement, will do or cause to be done all things and acts necessary to ensure that this agreement is registered against title to the Lands with priority over all other financial encumbrances except financial encumbrances in favour of the City.

9.4 In any action to enforce this agreement the City will be entitled to court costs on an actual cost basis. In addition to any other rights the City may have pursuant to this agreement or at law or in equity, the City may enforce this agreement by mandatory and prohibitory injunctions.

9.5 If the Land Title Office refuses to register this agreement, the Owner agrees to modify or re-execute this agreement to the City's satisfaction so as to enable registration.

9.6 This agreement will charge and run with the Lands and will enure to the benefit of and be binding upon the Owner and its successors and trustees and the Owner's successors in title to the Lands and their respective trustees and successors and all parties claiming through such owners.

9.7 Without limiting the generality of Section 9.6, if the Lands, or any portion thereof, are subdivided by way of a strata plan and the Building or any part thereof is located within the strata plan:

- (a) this agreement will charge each strata lot and will be noted on the common property sheet of the strata corporation;
- (b) the strata corporation or strata corporations so created will be responsible for the performance and observance of the Owner's covenants and obligations herein at the expense of the strata lot owners; and
- (c) the liability of each strata lot owner for the performance and observance of the Owner's covenants and obligations in this agreement will be in proportion to the unit entitlement of his, her or its strata lot as established by the strata plan and will be treated as a common expense and all strata lot owners will contribute to such costs in proportion to their unit entitlement, subject to the *Strata Property Act* (British Columbia) and the by-laws of the strata corporation.

9.8 If the Building is subdivided out of the Lands by way of an air space parcel or conventional building subdivision, provided always that an occupancy permit has first been issued for the Building and the rehabilitation thereof pursuant to this agreement has been completed to the City's satisfaction, the City will, within a reasonable time of being requested to do so by the Owner and at the Owner's expense, release and discharge this agreement from title to that portion of the subdivided Lands in which no part of the Building is located.

9.9 Nothing contained or implied in this Agreement will derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter* and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and the City.

IN WITNESS WHEREOF the parties have executed this Agreement on Form C which is a part hereof.

**PRIORITY AGREEMENT****MEMORANDUM AS TO ENCUMBRANCES, LIENS and INTERESTS**

**CTC BANK OF CANADA** (the "Chargeholder")  
holder of Mortgage No. BB516560 and Assignment of Rents No. BB516561  
(collectively, the "Charge")  
charging Lot B Block 2 Old Granville Townsite Plan 10753 and  
The East 26 Feet of Lot 14 Block 2 Old Granville Townsite Plan 168 (together, the "Lands")

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed to by the Chargeholder, the Chargeholder, being the holder of the Charge, hereby consents to the granting of the Section 219 Covenant, Statutory Right of Way and Equitable Charge (collectively, the "Encumbrance") which are contained in the attached agreement, and consents and agrees that the Encumbrance shall be binding upon the Chargeholder's interest in or charge upon the Lands and shall be an encumbrance upon the Lands in priority to the Charge in the same manner and to the same effect as if the Encumbrance had been granted and registered against title to the Lands prior to the dating, execution and registration of the Charge and the advance of any monies thereunder.

IN WITNESS WHEREOF the Chargeholder has executed this Priority Agreement by causing its proper officers to sign the General Instrument - Part 1 attached hereto.

**END OF DOCUMENT**

**EXPLANATION****Business Prohibition By-law  
amending by-law re exotic or wild animals**

The attached by-law will implement Council's resolution of February 14, 2008 to amend the Business Prohibition By-law regarding exceptions for the keeping of certain wild or exotic animals.

Director of Legal Services  
February 26, 2008

BY-LAW NO. \_\_\_\_\_



**A By-law to amend Business Prohibition By-law No. 5156  
regarding exotic or wild animals**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. Council strikes out the wording in the first column of section 13 of Schedule A to the Business Prohibition By-law, and substitutes:

“13. A business that offers for sale or sells, at retail or wholesale, or that uses in a competition, exhibition, performance, event, or other situation, any exotic animal listed in the adjacent column of this section 13, except for an aquarium or zoological park operated by an organization accredited by the Canadian Association of Zoos and Aquariums or by a full member of the Canadian Association of Science Centres”.

2. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk