

**EXPLANATION****Heritage Taxation Exemption By-law  
for 71-77 East Hastings Street**

On April 15, 2008, Council enacted By-law 9628, which provided for a heritage taxation exemption for eligible heritage property at 71 East Hastings Street to a value of \$173,670.00 or 10 years, whichever first occurs. The project did not proceed and the by-law expired. A new owner sought a property tax exemption on the same terms.

On September 16, 2014, Council again approved a heritage taxation exemption for eligible heritage property at 71-77 East Hastings Street to a value of \$173,670.00 or 10 years, whichever first occurs. Enactment of the attached By-law will accomplish Council's intention.

Director of Legal Services  
October 28, 2014



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

**Heritage Taxation Exemption By-law  
for 71-77 East Hastings Street**

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

1. Council exempts from real property taxation the eligible heritage property legally described as PID: 029-066-468; Lot 1, Block 8, District Lot 196, Group 1, New Westminster District, Plan EPP26724,:

- (a) to a value of \$173,670.00, calculated from and after the commencement date;  
or
- (b) for 10 years, calculated from and after the commencement date;

whichever first occurs.

2. If issuance of an occupancy permit for the heritage rehabilitation work authorized under development application number DE410058 occurs:

- (a) before October 31<sup>st</sup>, the commencement date will be January 1<sup>st</sup> of the next calendar year; or
- (b) on or after October 31<sup>st</sup>, the commencement date will be January 1<sup>st</sup> of the calendar year after the next calendar year.

3. If the applicant for the development permit does not fulfil, or cause to be fulfilled, all requirements necessary to obtain issuance of an occupancy permit for the work authorized pursuant to development application number DE410058 within 60 months after the enactment date of this By-law, this By-law will expire and have no further force or effect.

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

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Mayor

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

## EXPLANATION

**A By-law to amend the Parking By-law  
Re: 1870 East 1<sup>st</sup> Avenue and 1723 Victoria Drive**

After the public hearing on April 16, 2012, Council resolved on April 18, 2012 to add 1870 East 1<sup>st</sup> Avenue and 1723 Victoria Drive to Schedule C of the Parking By-law. The Director of Planning has advised that all prior to conditions have been satisfied, and enactment of the attached By-law will implement Council's resolution.

Director of Legal Services  
October 28, 2014

CD-1 Districts Parking Requirements  
1870 East 1<sup>st</sup> Avenue and  
1723 Victoria Drive



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

**A By-law to amend Parking By-law No. 6059  
with regard to CD-1 Districts Parking Requirements**

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

1. This By-law amends the indicated provisions of the Parking By-law.
2. To Schedule C, Council adds:

Address	By-law No.	CD-1 No.	Parking requirements
1870 East 1 <sup>st</sup> Avenue and 1723 Victoria Drive	11084	(583)	Parking, loading and bicycle spaces in accordance with By-law requirements on April 18, 2012, except that there must be no less than one parking space for each six dwelling units.

3. 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.
4. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Mayor

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

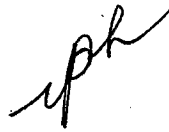
EXPLANATION

**Subdivision By-law No. 5208 amending By-law  
Re: 4412-4488 Cambie Street**

Enactment of the attached By-law will delete 4412-4488 Cambie Street from the maps forming part of Schedule A of the Subdivision By-law, and implement Council's resolution of October 22, 2013 dealing with the rezoning of the property, and is consequential to the rezoning of the property.

Director of Legal Services  
October 28, 2014

4412-4488 Cambie Street



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

**A By-law to amend Subdivision By-law No. 5208**

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

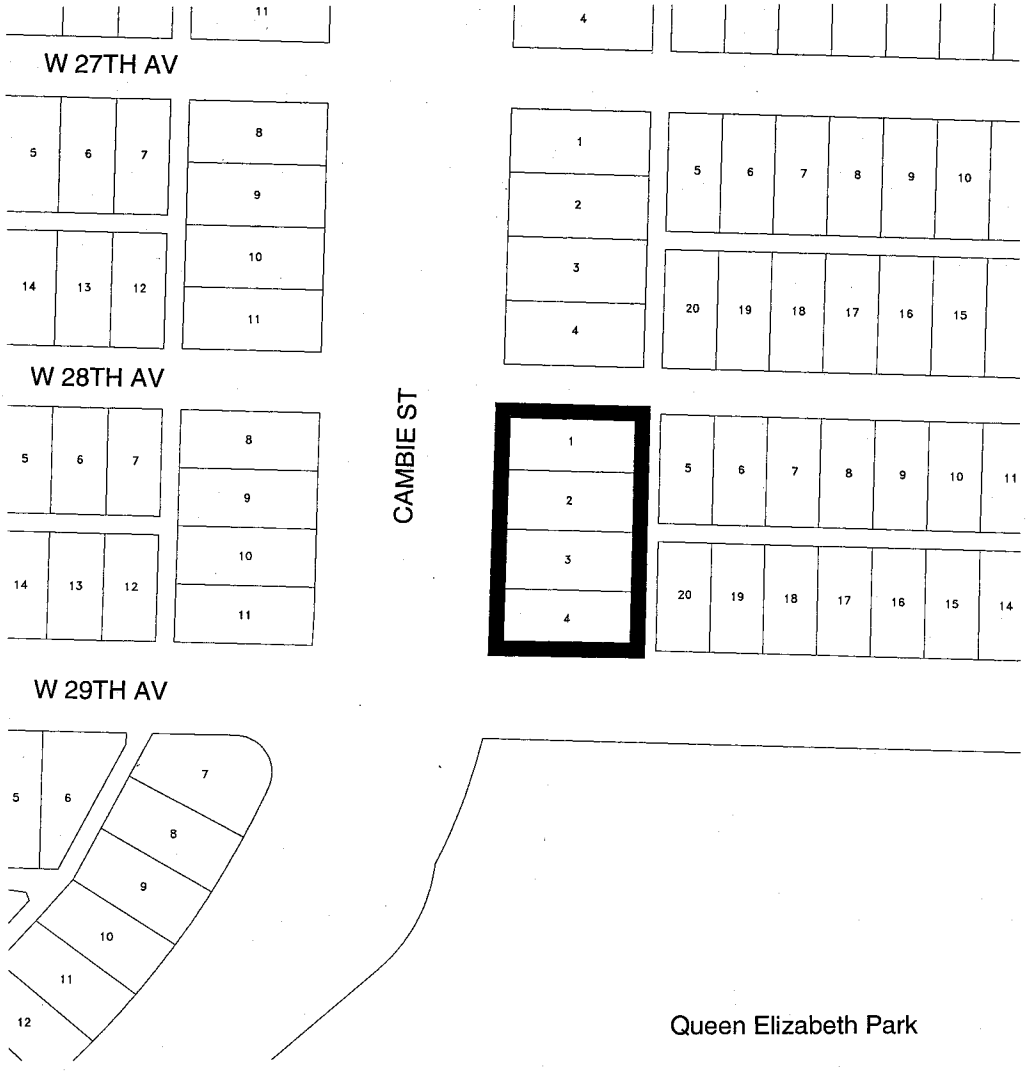
1. Council amends Schedule A to the Subdivision By-law in accordance with the plan labelled Schedule A, and attached to and forming part of this By-law, by deleting therefrom Lots 1 to 4, Block 741 DL 526 Plan 6539, PIDs: 010-864-202, 010-864-229, 010-864-245 and 010-864-253 respectively, from the RS-1 maps forming part of Schedule A of the Subdivision By-law.
2. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Mayor

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

By-law No. \_\_\_\_\_ being a By-law to amend By-law No. 5208  
being the Subdivision By-law



The properties outlined in black (  ) are deleted from the RS-1/RS-3/RS-3A/RS-5/RS-6 maps forming part of Schedule A of the Subdivision By-law

4412-4488 Cambie Street

map: 1 of 1

scale: NTS



City of Vancouver

date: 2014-10-10

## EXPLANATION

**Subdivision By-law No. 5208 amending By-law  
Re: 458-476 West 41<sup>st</sup> Avenue**

Enactment of the attached By-law will delete 458-476 West 41<sup>st</sup> Avenue from the maps forming part of Schedule A of the Subdivision By-law, and implement Council's resolution of March 10, 11 and 14, 2014, dealing with the rezoning of the property, and is consequential to the rezoning of the property.

Director of Legal Services  
October 28, 2014



458-476 West 41<sup>st</sup> Avenue



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

**A By-law to amend Subdivision By-law No. 5208**

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

1. Council amends Schedule A to the Subdivision By-law in accordance with the plan labelled Schedule A, and attached to and forming part of this By-law, by deleting therefrom Lots 19 and 20, Block 857, DL 526, Plan 7737, PIDs 010-337-407 and 010-337-423 respectively, from the RS-1 maps forming part of Schedule A of the Subdivision By-law.
2. This By-law is to come into force and take effect on the date of its enactment.


ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Mayor

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

By-law No. \_\_\_\_\_ being a By-law to amend By-law No. 5208  
being the Subdivision By-law



The properties outlined in black (  ) are deleted from the RS-1/RS-3/RS-3A/RS-5/RS-6 maps forming part of Schedule A of the Subdivision By-law

458-476 West 41st Avenue

map: 1 of 1

scale: NTS



City of Vancouver

date: 2014-10-10

## EXPLANATION

**Heritage Designation By-law  
Re: 3345 Collingwood Street**

At a public hearing on October 14, 2014, Council approved a recommendation to designate the structure and exterior envelope, of the improvements and exterior building materials of a building at 3345 Collingwood Street as protected heritage property. Enactment of the attached By-law will achieve the designation.

Director of Legal Services  
October 28, 2014

3345 Collingwood Street  
Evans Residence



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

**A By-law to designate certain real property  
as protected heritage property**

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

1. Council considers that the real property described as:

Structure and  
exterior envelope of  
the improvements  
and exterior  
building materials of  
heritage building

3345 Collingwood Street  
Vancouver, B.C.

PID: 012-604-895  
LOT 12 OF LOT 2  
BLOCK 28  
DISTRICT LOT 139  
PLAN 3576

PID: 012-604-909  
LOT 13 OF LOT 2  
BLOCK 28  
DISTRICT LOT 139  
PLAN 3576

PID: 012-604-925  
LOT 14 OF LOT 2  
BLOCK 28  
DISTRICT LOT 139  
PLAN 3576

has heritage value or heritage character, and that its designation as protected heritage property is necessary or desirable for its conservation.

2. Council designates the real property described in section 1 of this By-law as protected heritage property under Section 593 of the *Vancouver Charter*.

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

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Mayor

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

**EXPLANATION****Authorization to enter into a  
Heritage Revitalization Agreement  
Regarding 3345 Collingwood Street**

At a public hearing held on October 14, 2014, Council resolved to enter into a By-law to authorize an agreement regarding 3345 Collingwood Street, pursuant to Section 592 of the *Vancouver Charter*. Enactment of the attached By-law will achieve this.

Director of Legal Services  
October 28, 2014

3345 Collingwood Street  
Evans Residence



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 property, including terms and conditions to which Council and the owner may agree.

Certain property bearing the civic address of 3345 Collingwood Street, and the following legal descriptions:

PID: 012-604-895  
LOT 12 OF LOT 2  
BLOCK 28  
DISTRICT LOT 139  
PLAN 3576

PID: 012-604-909  
LOT 13 OF LOT 2  
BLOCK 28  
DISTRICT LOT 139  
PLAN 3576

PID: 012-604-925  
LOT 14 OF LOT 2  
BLOCK 28  
DISTRICT LOT 139  
PLAN 3576

contains 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 property have agreed to facilitate such conservation, by agreeing to the terms and conditions set out in the attached Heritage Revitalization Agreement.

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

1. Council authorizes the City to enter into a Heritage Revitalization Agreement with the owner, in substantially the form and substance of the Heritage Revitalization Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the 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                      , 2014

\_\_\_\_\_  
Mayor

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



**LAND TITLE ACT  
FORM C (Section 233) CHARGE  
GENERAL INSTRUMENT - PART 1 Province of British Columbia**

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.



1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)  
 Heidi Granger, Solicitor  
 City of Vancouver  
 453 West 12th Avenue  
 Vancouver BC V5Y 1V4

LTO Client number: 10647  
 Phone number: 604.829.2001  
 Matter number: 14-0555

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
 [PID] [LEGAL DESCRIPTION]

**SEE SCHEDULE**

STC? YES

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION

**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 Annexed as Part 2  
 A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

**DUNBAR WEST SIDE DEVELOPMENTS LTD. (INCORPORATION NO. BC0985186)  
 THE TORONTO-DOMINION BANK, AS TO PRIORITY**

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

**CITY OF VANCOUVER  
 A MUNICIPAL CORPORATION  
 453 WEST 12TH AVENUE  
 VANCOUVER V5Y 1V4 BRITISH COLUMBIA  
 CANADA**

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)

**AMY LOWE**  
 Barrister & Solicitor  
 Suite 2480, 1066 West Hastings Street  
 Vancouver, BC V6E 3X2  
 Tel: 604.685.8186

(as to both signatures)

Execution Date		
Y	M	D
14	10	01

Transferor(s) Signature(s)

**DUNBAR WEST SIDE  
 DEVELOPMENTS LTD.**  
 by its authorized signatory(ies):

Name: Brad McPherson

Name:

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.

LAND TITLE ACT  
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)



**GORDON A. LOVE**  
*Barrister & Solicitor*  
26th FLOOR  
700 WEST GEORGIA STREET  
VANCOUVER, B.C.  
V7Y 1B3

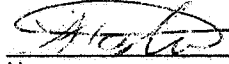
(as to both signatures)

Execution Date

Y	M	D
14	09	30

Transferor / Borrower / Party Signature(s)

THE TORONTO-DOMINION BANK  
by its authorized signatory(ies):



Name:

**Laura Koester**  
Account Manager  
The Toronto-Dominion Bank  
Pacific Real Estate Group  
700 West Georgia St, 2nd Fl  
Vancouver, BC V7Y 1A2

Name:

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.

**LAND TITLE ACT  
FORM D  
EXECUTIONS CONTINUED**

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

\_\_\_\_\_

Y	M	D
14		

CITY OF VANCOUVER  
by its authorized signatory:

\_\_\_\_\_

**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.

LAND TITLE ACT  
FORM E

SCHEDULE

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2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

**012-604-895 LOT 12 OF LOT 2 BLOCK 28 DISTRICT LOT 139 PLAN 3576**

STC? YES

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2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

**012-604-909 LOT 13 OF LOT 2 BLOCK 28 DISTRICT LOT 139 PLAN 3576**

STC? YES

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2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

**012-604-925 LOT 14 OF LOT 2 BLOCK 28 DISTRICT LOT 139 PLAN 3576**

STC? YES

**LAND TITLE ACT  
FORM E  
SCHEDULE**

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Article 2
NATURE OF INTEREST Priority Agreement	CHARGE NO.	ADDITIONAL INFORMATION granting above Section 219 Covenant priority over Mortgage CA3549226 and Assignment of Rents CA3549227 Page 22
NATURE OF INTEREST Covenant	CHARGE NO.	ADDITIONAL INFORMATION Article 4
NATURE OF INTEREST Priority Agreement	CHARGE NO.	ADDITIONAL INFORMATION granting above Section 219 Covenant priority over Mortgage CA3549226 and Assignment of Rents CA3549227 Page 22
NATURE OF INTEREST Statutory Right of Way	CHARGE NO.	ADDITIONAL INFORMATION Article 5
NATURE OF INTEREST Priority Agreement	CHARGE NO.	ADDITIONAL INFORMATION granting above Statutory Right of Way priority over Mortgage CA3549226 and Assignment of Rents CA3549227 Page 22

LAND TITLE ACT  
FORM E  
SCHEDULE

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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Equitable Charge		Article 7

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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		granting above Equitable Charge priority over Mortgage CA3549226 and Assignment of Rents CA3549227  Page 22

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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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**TERMS OF INSTRUMENT - PART 2**  
**HERITAGE REVITALIZATION AGREEMENT**

**WHEREAS:**

- A. The Owner (as herein defined) is the registered owner of three parcels of land at 3345 Collingwood Street in the City of Vancouver (the "Lands") which has the legal description shown in the Form C - Part 1 part of this document and is also the registered owner of two additional parcels of land located contiguous to and immediately to the west of the Lands.
- B. There is a building situated on the Lands, known as the "Evans Residence", which is considered to be of heritage value (the "Heritage Building").
- C. The Owner wishes to develop the Lands by:
- (i) relocating the Heritage Building to the southeast corner of the Lands (the "Relocation Work") and rehabilitating and converting the Heritage Building into a Multiple Conversion Dwelling comprised of three Dwelling Units;
  - (ii) constructing on the Lands a new One-Family Dwelling directly to the north of the Heritage Building;
  - (iii) subdividing the Lands and a portion of the lands located contiguous to and immediately to the west of the Lands to reconfigure the westerly parcel ("Lot A") and to create two new legal parcels, one of which will contain the Heritage Building (the "Heritage Parcel") and one of which will contain the new One-Family Dwelling (the "New Development Parcel"),
- and under development permit application No. DE417609 (the "DP Application") has applied to the City for a development permit for that purpose.
- D. The Owner proposes that, in exchange for a number of variations to the City of Vancouver ("City") *Zoning & Development By-law* and Subdivision By-law needed for the proposed project as contemplated under the DP Application, the Owner will enter into a heritage revitalization agreement in respect of the Heritage Building and accept the adding of the Heritage Building to the City's Heritage Register, in the 'C' category therein, and the designation of the exterior of the Heritage Building only as a protected heritage property under the provisions of the *Vancouver Charter SBC 1953 c.55*.

THEREFORE, pursuant to Section 592 of the *Vancouver Charter SBC 1953 c.55*, and in consideration of the payment ten dollars (\$10.00) by the City to the Owner, the mutual obligations and benefits given herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

**ARTICLE 1  
DEFINITIONS**

1.1 **Definitions.** In this agreement, unless explicitly used differently elsewhere herein, the terms defined in this section have the meanings given to them here:

- (a) **"City"** means the municipality of the City of Vancouver continued under the *Vancouver Charter* and **"City of Vancouver"** means its geographic location and area;
- (b) **"Conservation Plan"** means a written plan and guidelines prepared by and/or under the supervision of a Heritage Consultant and explicitly accepted by the City for the rehabilitation and conservation of the Heritage Building as provided for hereunder;
- (c) **"Development"** means the proposed development project as described above in the introductory paragraphs hereto to rehabilitate and relocate the Heritage Building on the Lands and convert the Heritage Building into a Multiple Conversion Dwelling comprising three Dwelling Units, construct a new One-Family Dwelling on the Lands pursuant to the DP Application and subdivide the Lands and a portion of the lands located contiguous to and immediately to the west of the Lands to create Lot A, the Heritage Parcel, and the New Development Parcel;
- (d) **"Development Permit"** means any development permit(s) issued by the City under the DP Application in respect of the Development, as such permit(s) may be modified or amended from time to time, including, without limitation, all final reports, plans, drawings and specifications relating thereto;
- (e) **"Director of Planning"** means City's Director of Planning appointed under the provisions of the *Vancouver Charter*;
- (f) **"DP Application"** has the meaning given above in the introductory paragraphs hereto;
- (g) **"Dwelling Unit"** has the meaning given under the *Zoning & Development By-law*;
- (h) **"Heritage Building"** has the meaning given above in the introductory paragraphs herein;
- (i) **"Heritage Consultant"** means an independent, heritage building rehabilitation and conservation expert, knowledgeable and experienced in and duly qualified for planning and supervising rehabilitation and conservation work for heritage buildings;
- (j) **"Heritage Designation"** means the City's designation of the Heritage Building as a protected heritage property pursuant to section 593 of the *Vancouver Charter*;
- (k) **"Heritage Parcel"** means the new legal parcel identified in the Subdivision Plan as **"Lot C"** to be created by the Subdivision which is to contain the Heritage Building;



- (l) "Lands" has the meaning given above in the introductory paragraphs hereto and includes any other parcels of land into which the Lands may at any time in any way be consolidated or subdivided;
- (m) "*Land Title Act*" means the *Land Title Act*, R.S.B.C. 1996, c.250;
- (n) "Lot A" means that legal parcel immediately to the west of the Heritage Parcel and the New Development Parcel to be created by the Subdivision;
- (o) "Lot A Owner" means the registered owner or owners of Lot A, but no other parcel, upon creation of Lot A by the Subdivision, and the successors and assigns thereof and, without limitation, if the Lands are subdivided by way of a strata plan under the *Strata Property Act* of British Columbia, then "Owner" includes the strata corporation thereby created;
- (p) "New Building" means the new One-Family Dwelling contemplated for construction on the New Development Parcel under the DP Application as described in the introductory paragraphs hereto;
- (q) "New Development Parcel" means the new legal parcel identified in the Subdivision Plan as "Lot B" to be created by the Subdivision which is to contain the New Building;
- (r) "New Development Parcel Owner" means the registered owner or owners of the New Development Parcel, but no other parcel, upon creation of the New Development Parcel by the Subdivision, and the successors and assigns thereof and, without limitation, if the Lands are subdivided by way of a strata plan under the *Strata Property Act* of British Columbia, then "Owner" includes the strata corporation thereby created;
- (s) "One-Family Dwelling" has the meaning given under the *Zoning & Development By-law*;
- (t) "Owner" means the registered owner or owners of the Lands and the successors and assigns thereof and, without limitation, if the Lands are subdivided by way of a strata plan under the *Strata Property Act* of British Columbia, then "Owner" includes the strata corporation thereby created;
- (u) "rehabilitate" and "rehabilitation" mean the planning and carrying out of restoration, rehabilitation, construction and conservation work to restore, upgrade, improve and conserve the structure, support and heritage characteristics and features of a heritage building or real property heritage feature so as to revitalize it and extend its life and use as such;
- (v) "Rehabilitation Work" has the meaning given below herein;
- (w) "Relocation Work" has the meaning given in the introductory paragraphs herein;

- (x) "Subdivision" means the proposed subdivision of the Lands and a portion of the lands located contiguous to and immediately to the west of the Lands contemplated in respect of the DP Application and the Subdivision Plan, the purpose of which is to create Lot A, the Heritage Parcel and the New Development Parcel;
- (y) "Subdivision By-law" means the City's *Subdivision By-law No. 5208* and any amendments thereto and replacements thereof;
- (z) "Subdivision Plan" means the Proposed Subdivision Plan of Lots 12 and 13 of Lot 2, Plan 3576 and Lot 3, Plan EPP43665, All of Block 28 District Lot 139 Group 1 New Westminster District Plan 3576, a reduced copy of which is attached hereto as Schedule A;
- (aa) "Vancouver Charter" means the *Vancouver Charter, S.B.C. 1953, c.55*, 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;
- (bb) "Zoning & Development By-law" means the City's *Zoning & Development By-law No. 3575* and any amendments thereto and replacements thereof.

ARTICLE 2  
SECTION 219 COVENANT  
REHABILITATION AND CONSERVATION OF HERITAGE BUILDING

2.1 Pursuant to Section 219 of the *Land Title Act*, the Owner covenants and agrees, as a covenant and agreement running with, charging and binding the Lands, that:

- (a) the Owner, at the Owner's expense, and to the satisfaction of the Director of Planning:
  - (i) within twenty-four (24) months after the date upon which the Development Permit is issued, plus any additional time by which the date of expiry of the Development Permit may be extended under the provisions of the *Zoning and Development By-law*, but in any event by no later than thirty (30) months after the date upon which this covenant is registered on title to the Lands, shall commence the Relocation Work and rehabilitate or cause the rehabilitation of the Heritage Building and shall do so in accordance with this agreement, the Development Permit and the Conservation Plan (the "Rehabilitation Work");
  - (ii) shall ensure that a Heritage Consultant supervises the Relocation Work and Rehabilitation Work;
  - (iii) shall ensure that, at all times during the carrying out of the Relocation Work and Rehabilitation Work, the Heritage Building is secure from vandalism and occupation by squatters; and

- (iv) on completion of the Rehabilitation Work as required by this agreement, shall cause a Heritage Consultant to submit to the Director of Planning, a signed statement stating explicitly that the Rehabilitation Work has been completed in accordance with the Conservation Plan;
- (b) nobody will in any way use or occupy either the Heritage Building or the New Building or any part thereof and nobody will apply for or take any other action to compel the City, and, notwithstanding that either the Heritage Building or New Building may be ready for occupancy, the City will be under no obligation to issue any occupancy permit for either the Heritage Building or the New Building or any part thereof at any time after this agreement is registered on title to the Lands, until:
  - (i) the Relocation Work and Rehabilitation Work has been completed in accordance herewith;
  - (ii) the Owner, as required above herein, has submitted or caused to be submitted to the Director of Planning a signed written statement prepared by a Heritage Consultant stating explicitly that the Rehabilitation Work has been completed in accordance with the Conservation Plan; and
  - (iii) the City has given the Owner a written notice or confirmation by which the City explicitly accepts or confirms its acceptance that the Rehabilitation Work has been completed in accordance herewith;
- (c) the City may revoke at anytime any occupancy permit(s) issued for either the Heritage Building or the New Building prior to completion of the Rehabilitation Work, unless such occupancy permit(s) was obtained in accordance with this agreement, and in such circumstances the Owner, on reasonable notice from the City, will ensure that anyone occupying any part of any such building vacates it immediately on such revocation of occupancy permit(s), and if anyone continues to occupy any portion of any part of either the Heritage Building or the New Building in contravention of such revocation, this agreement and any applicable City bylaws, the City, at the Owner's expense, may pursue all remedies available to it, including, without limitation, injunctive relief, to ensure that either the Heritage Building or the New Building, as the case may be, is vacated and unoccupied in accordance with this agreement;
- (d) after completion of the Rehabilitation Work in accordance herewith, the Owner, at the Owner's expense, will do all things reasonably necessary to conserve the Heritage Building as rehabilitated and, in any event, keep it in good condition in all respects at all times;
- (e) at all times after and while this agreement is registered on title to the Lands, the Owner, at the Owner's expense, shall keep the New Building and the Heritage Building insured to its full replacement value against all perils, including, without limitation, damage or destruction by earthquake;

- (f) except for maintenance and repair work, the Owner will not and will not suffer or permit anyone else to do anything at anytime to renovate, alter, modify or reconfigure or that will result in any alteration, modification or reconfiguration of the Heritage Building in any way except as may be permitted or required by this agreement, the Conservation Plan and/or any development and/or heritage alteration permits issued by the City;
- (g) the Owner shall not at any time and shall not suffer or permit anyone else to at anytime do anything that will obscure, deface or remove in any way any heritage related commemorative plaque the City, at its expense, may attach to the Heritage Building pursuant to the statutory right of way granted to pursuant to Article 4 hereof;
- (h) if at any time for any reason the Heritage Building is damaged in any way or destroyed, the Owner, at the Owner's expense, and to the City's satisfaction, shall repair it or replace it with a replica building, except that if the Owner *bona fide* believes that to do so would be uneconomical, in which case, and if for that reason the Owner wishes to demolish it as damaged or wishes not to replicate it, as the case may be, the Owner, at the Owner's expense, and in consultation with and to the satisfaction of the City, will prepare an economic analysis therefor, but taking into consideration only land related economic factors, such as, for example, but without limitation, the estimated cost to repair or replicate the Heritage Building, as the case may be, the anticipated market value of the repaired or replicated building, the incentives given by the City for this agreement and the Heritage Designation, the estimated value of the Lands under the zoning otherwise applicable thereto, after which the City and the Owner, together, on the basis of that analysis, will determine whether in the circumstances it would be uneconomical to repair or replicate the Heritage Building, failing which the matter in all respects will be determined by arbitration in accordance with the provisions of the *Arbitration Act* RSBC 1996 c. 55, and if the Owner and the City agree or if in arbitration it is determined that it would be uneconomical for the Owner to be required to repair or replicate the Heritage Building, then, by explicit written notification, the City will consent to the Owner's wish to not repair or replicate the Heritage Building and will discharge this agreement from title to the Lands and the Owner may request of the City's Mayor and Council that the Heritage Designation be cancelled;
- (i) if at anytime, in default under this agreement, the Owner, in the City's opinion, fails to perform its obligations as required hereby to rehabilitate and conserve the Heritage Building and fails to rectify any such default within thirty (30) days, or within such other longer time as the City may explicitly permit, after notice from the City to so rectify such default, the City, on the Owner's behalf and at the Owner's expense, may, but will be under not be obligated to, rectify the Owner's default; and
- (j) the Owner acknowledges and agrees that, notwithstanding that this agreement and the Heritage Designation will result in restrictions with respect to the future use and development and therefore may affect the value of the Lands, the Owner

has received full and fair compensation therefor and the Owner hereby waives and renounces any and all claims for any further or other compensation by reason of this agreement and/or the Heritage Designation and acknowledges and agrees that the requirements of Section 595(1) of the *Vancouver Charter SBC 1953 c.55* have been fully satisfied, and the Owner hereby releases the City and its officials, officers, employees and agents from any liability for any loss, injury, damage or expense of any kind the Owner may suffer, incur or experience and the Owner will indemnify the City for any loss, injury, damage or expense the City may incur, suffer or experience and for any complaint, demand, claim, action, suit or judgment for any loss, injury, damage or expense anyone else may suffer, incur or experience arising out of or in any way connected this agreement and/or the Heritage Designation. The release and promise of indemnification contained in this paragraph will survive discharge and termination of this agreement.

**ARTICLE 3  
LETTER OF CREDIT**

- 3.1 Notwithstanding the occupancy restrictions set out above in respect of the Heritage Building and the New Building, the City, in its discretion, may issue occupancy permits therefor and, on that basis one or both of them, may be occupied prior to the time that the Rehabilitation Work is completed in accordance herewith, provided:
- (a) the Owner duly applies to the City for any and all occupancy permits required therefor and pays all fees required therefor;
  - (b) this agreement has been fully registered in the Land Title Office to the City's satisfaction;
  - (c) the City has issued a building permit and/or heritage alteration permit in respect of the Rehabilitation Work;
  - (d) all legal requirements for occupancy of the New Building or the Heritage Building have been fulfilled;
  - (e) the Owner has delivered to the City, in all respects to the City's satisfaction, a letter of credit in the amount equal to one hundred and twenty percent (120%) of the then estimated cost to complete the Rehabilitation Work, with such estimate to be made in writing by the Consultant and explicitly accepted in writing by the City;
  - (f) the Owner, at the time of application for any such occupancy permits, is not, in the City's opinion, in breach of any of its obligations under this agreement or any other agreement between the City and the Owner with respect to the Heritage Building, the New Building and/or the Lands; and
  - (g) the City, in its opinion, is satisfied that the Rehabilitation Work is being carried out diligently.

- 3.2 All letters of credit required under this Article will be issued by a Schedule I Canadian chartered bank or other financial institution acceptable to the City's Director of Legal Services and will be unconditional, irrevocable and self-renewing and otherwise in a form and content which is acceptable to the City and 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.
- 3.3 The City may call upon the letter or letters of credit provided to it pursuant to the preceding paragraphs herein and apply the proceeds therefrom for any purpose and in any manner it may choose in connection with the Rehabilitation Work, 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 act of bankruptcy or becomes bankrupt or takes the benefit of any act or legislation that may be enforced for bankrupt or insolvent debtors;
  - (c) the Owner, in the City's opinion, has not been diligently carrying out the Rehabilitation Work; or
  - (d) the City in any way undertakes all or any part of the Rehabilitation Work pursuant to this agreement.
- 3.4 Within a reasonable time of the Owner's request after completion of the Rehabilitation Work in accordance with this agreement, the City will, as the case may be, return to its issuer any letter of credit provided to the City hereunder or, if the City has called upon the letter of credit, deliver to the Owner any remaining balance therefrom.

#### ARTICLE 4

##### SECTION 219 COVENANT - NO SEPARATE SALE

- 4.1 Pursuant to Section 219 of the *Land Title Act*, the Owner covenants and agrees, as a covenant and agreement running with, charging and binding the Lands, that no portion of the Lands, including, without limitation, the Heritage Parcel and the New Development Parcel, will at any time be sold separately from any other portion of the Lands and that all of the Lands, including, without limitation, the Heritage Parcel and the New Development Parcel, will be owned at all times by the same person or persons.
- 4.2 Within a reasonable time of the Lot A Owner's request after the Subdivision and Relocation Work have been completed, the City, at the Lot A Owner's expense, will discharge from title to Lot A the Section 219 Covenant contained in this Article 4.
- 4.3 Within a reasonable time of the Owner's request after the Rehabilitation Work has been completed in accordance with this agreement, the City, at the Owner's expense, will discharge from title to the Lands the Section 219 covenant contained in this Article 4.

**ARTICLE 5  
STATUTORY RIGHT OF WAY**

- 5.1 Pursuant to Section 218 of the *Land Title Act*, the Owner hereby grants to the City, effective at all times from and after the date upon which the City issues the Development Permit, a statutory right of way to enter, be and move about on the Lands:
- (a) to install, maintain, repair and replace on the exterior of the Heritage Building or at the perimeter of the Lands, at the City's expense, and in consultation with the Owner as to location, a commemorative plaque; and
  - (b) in the event the Owner, in the City's opinion, is in default of any of its obligations under this agreement to rehabilitate and conserve the Heritage Building, to carry out any such obligations of the Owner hereunder as the City may choose.
- 5.2 The statutory right of way granted in the preceding paragraph is necessary for the operation and maintenance of the City's undertaking.
- 5.3 Notwithstanding any other provision of this agreement, nothing herein obligates the City to exercise any of the rights granted to it by way of the statutory right of way contained herein.

**ARTICLE 6  
DEBTS OWED TO CITY**

- 6.1 If the City, pursuant to this agreement, enters upon the Lands or any of them to perform any of the Owner's obligations hereunder to carry out the Rehabilitation Work or to conserve, repair or replace or replicate the Heritage Building:
- (a) there will be no express or implied warranties as to the quality of any work the City may so carry out or the suitability of the materials for the purposes for which they are put; and
  - (b) the Owner will pay to the City, forthwith on demand, to the extent the City has not taken payment for such costs from any letters of credit provided to the City hereunder, as reimbursement for expenses incurred, the full amount of all costs the City incurs to carry out work to rehabilitate, conserve, repair or replace the Heritage Building, plus twenty percent (20%) of such costs as fair compensation for the City's overhead, and any such amounts the Owner does not pay or fails to pay to the City forthwith on demand will bear interest, until paid in full, at the prime lending rate at the Bank of Montreal's main branch in the City of Vancouver, plus three percent (3%), calculated monthly and not in advance.

**ARTICLE 7  
EQUITABLE CHARGE**

- 7.1 The Owner hereby 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.

- 7.2 The equitable charge the Owner has granted to the City herein may be enforced by the appointment of a receiver for the sale of the Lands.

**ARTICLE 8  
BY-LAW VARIATIONS**

- 8.1 The *Subdivision Bylaw* is hereby varied for the Lands for purposes of the Development so that Section 9.8 of the *Subdivision By-law* shall not apply in respect of the Subdivision.

- 8.2 Section 10 of the *Zoning & Development By-law* is hereby varied as follows for the Lands, for purposes of the Development:

- (a) Section 10.7.1(a) is varied so that the Director of Planning may permit steps in any side yard;
- (b) Section 10.7.1(b) is varied so that the Director of Planning may permit eaves, gutters, sills and chimneys or other similar projections to project into a required yard, provided that the Director of Planning is satisfied that they correspond to drawings approved under the DP Application; and
- (c) Sections 10.15.1 and 10.15.13 are varied so that the Director of Planning may allow living accommodation to be located below finished grade without complying with the conditions set out in Sections 10.15.1 and 10.15.13.

8.3 **Heritage Parcel**

The RS-5 District Schedule to the *Zoning & Development By-law* is hereby varied as follows for the Heritage Parcel, for purposes of the Development:

- (a) Section 2.2DW is varied to permit a Multiple Conversion Dwelling;
- (b) Section 4.4.1 is varied so that a front yard with a minimum depth of 3.7 metres shall be provided;
- (c) Section 4.4.6 is varied so that the Director of Planning may permit eaves, gutters, canopies or other similar projections to project into a required front yard;
- (d) Section 4.5.1 is varied so that a side yard is not required;
- (e) Section 4.5.6 is varied so that the Director of Planning may permit eaves, canopies and gutters or other similar projections to project into a required side yard;
- (f) Section 4.6.1 is varied so that a rear yard with a minimum depth of 3 metres shall be provided;



- (g) Section 4.7.1 is varied to provide that the floor space ratio, inclusive of all buildings, shall not exceed 0.99 (approximately 4,074 square feet), and further, so that subsections (a) to (e) shall not apply;
- (h) Section 4.7.3(c) is varied so that the Director of Planning may permit floors below finished grade to be excluded from the calculation of floor space ratio where used for off-street parking and/or bicycle storage, together with associated manoeuvre isles;
- (i) Section 4.7.3(g) is varied so that the Director of Planning may permit undeveloped floors beneath covered porches and landings to be excluded from the calculation of floor space ratio;
- (j) Section 4.8 regarding maximum site coverage shall not apply;
- (k) Section 4.16 regarding maximum building depth shall not apply; and
- (l) Section 4.17 regarding design provisions for entrance doors and other elements shall not apply.

#### 8.4 New Development Parcel

The RS-5 District Schedule to the *Zoning & Development By-law* is hereby varied as follows for the New Development Parcel, for purposes of the Development:

- (a) Section 4.4.1 is varied so that a front yard with a minimum depth of 3.7 metres shall be provided;
- (b) Section 4.5.1 is varied so that a side yard with a minimum width of 2.1 metres shall be provided;
- (c) Section 4.5.4 is varied so that a side of yard with a minimum width of 2.4 metres shall be provided;
- (d) Section 4.6.1 is varied to that a rear yard with a minimum depth of 6 metres shall be provided;
- (e) Section 4.7.1 is varied to provide that the floor space ratio, inclusive of all buildings, shall not exceed 0.91 (approximately 3,505 square feet);
- (f) Section 4.7.3(c) is varied so that the Director of Planning may permit floors below finished grade to be excluded from the calculation of floor space ratio where used for off-street parking and/or bicycle storage, together with associated manoeuvre isles;
- (g) Section 4.7.3(g) is varied so that the Director of Planning may permit undeveloped floors beneath covered porches and landings to be excluded from the calculation of floor space ratio;
- (h) Section 4.8 regarding maximum site coverage shall not apply;

- (i) Section 4.16 regarding maximum building depth shall not apply; and
- (j) Section 4.17 regarding design provisions for entrance doors and other elements shall not apply.

**ARTICLE 9  
SUBDIVISION**

9.1 **Subdivision.** If the Lands are subdivided at any time hereafter either under the provisions of the *Land Title Act* or under the *Strata Property Act* or under other similar legislation enacted from time to time then upon the deposit of a plan of subdivision, strata plan, or similar plan as the case may be:

- (a) subject to Section 9.2 herein, the rights and benefits of this Agreement herein granted will be annexed to and run with each of the new parcels, lots, or other subdivided parcels and areas so created; and
- (b) subject to Section 9.3 herein, the burdens, obligations, covenant, statutory right of way and equitable charge contained in this Agreement will continue to charge each of the new parcels, lots, or other subdivided parcels and areas so created.

9.2 **Subdivision by Strata Plan.** If the Lands, or any portion thereof, are subdivided by a strata plan, this Agreement will charge title to the strata lots and the common property comprising such strata plan and:

- (a) the Section 219 Covenant and obligations therein and the Statutory Right of Way and Equitable Charge granted herein will be registered against each individual strata lot and noted on the common property sheet;
- (b) the strata corporation or the strata corporations created will perform and observe the Owner's covenants in this Agreement, solely 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 herein will be in proportion to the unit entitlement of his, her or its strata lot as established by the strata plan,

provided that, if the Lands are first subdivided by air space plan and then one or more of these parcels are further subdivided by strata plan, the easements and covenants registered concurrently with the air space plan may designate the air space parcel or the remainder, and therefore the strata corporation, responsible to perform and observe the Owner's covenants in this Agreement.

9.3 Should the Lands be subdivided in accordance with the Subdivision, then, at the Lot A Owner's or New Development Parcel Owner's request, after the Relocation Work has been completed in respect of Lot A and after the Relocation and Rehabilitation Work has been completed in accordance with this agreement in respect of the New Development Parcel, the City, at the Lot A Owner's or New Development Parcel Owner's expense, will discharge from title to such parcels the Section 219 Covenant, the Statutory Right of Way

and the Equitable Charge contained in this agreement and will request of the Registrar of the Land Title Office that all legal notations referring to this agreement and the Heritage Designation be removed from title to Lot A and all legal notations referring to this agreement and the Heritage Designation be removed from title to the New Development Parcel, provided that, if the New Development Parcel Owner wishes to retain the variances granted under Section 8.4 of this agreement for the New Development Parcel then this agreement, including the variances granted for the New Development Parcel, will be retained on title to the New Development Parcel.

- 9.4 The Owner hereby acknowledges and agrees that for the purposes of Section 592(4) of the *Vancouver Charter*, following the Subdivision and the completion of the Rehabilitation Work, the New Development Parcel Owner may seek to amend Section 8.4 of this agreement as registered on title to the New Development Parcel without the consent or approval of either the owner of the Heritage Parcel or the Lot A Owner.

**ARTICLE 10  
NOTICES**

- 10.1 Any notice, request or communication required or permitted to be given hereunder will be in writing and will be deemed to have been duly given if delivered to the party or mailed in Canada by prepaid registered post addressed to the party as follows:

(a) if to the Owner, to the Owner's address as shown in the Land Title Office records;  
and

(b) if to the City:

City of Vancouver  
453 West 12<sup>th</sup> Avenue  
Vancouver, BC V5Y 1V4

*Attention: City Clerk and Director of Legal Services,*

or to such other address in Canada as any party may specify in writing to the other parties, provided that if and when the owner of the Lands or any part thereof should change, then to the address as set out in the State of Title Certificate for the Lands or such part thereof, and such notice will be deemed to have been received, if delivered, on the date of delivery, and if mailed as aforesaid within Canada then on the third (3<sup>rd</sup>) business day following its mailing, provided that if mailed, should there be between the time of the mailing and the actual receipt of the notice, a mail strike, slowdown or other labour dispute which might affect delivery of such notice, then such notice will only be effective if and when actually delivered.

**ARTICLE 11  
GENERAL**

- 11.1 **Joint and Several Liability.** If the Owner is more than one party, such parties shall be jointly and severally liable to the City for the performance and observance of the Owner's obligations in this agreement.

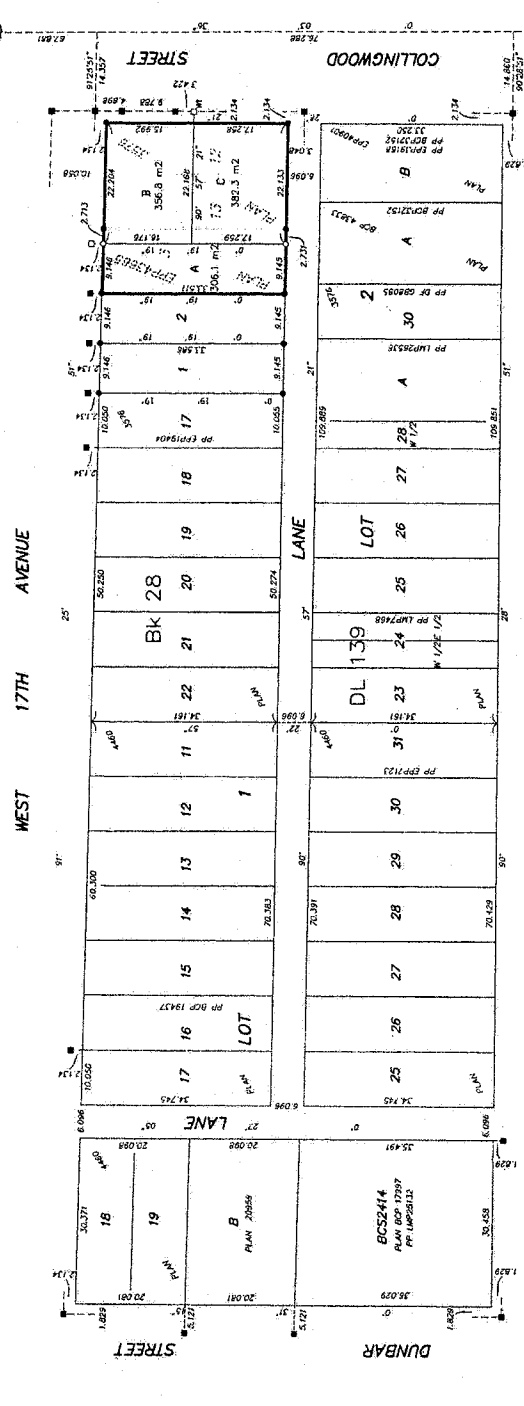
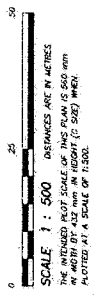
- 11.2 **Priority of Registration.** The Owner, at his, her or its expense, after execution of this agreement, shall do or cause to be done all things and acts necessary to ensure that this agreement is registered against title to the Lands with priority over all other encumbrances on title to the Lands as the City may require.
- 11.3 **Perfection of Intention.** The parties hereto will do such things and execute such further and other documents and instruments and do such further and other acts as may be reasonably necessary to implement and carry out the provisions and intent of this agreement and to ensure timely and effective registration in the Land Title Office.
- 11.4 **Waiver.** No failure on the part of the City to exercise and no delay in exercising any right under this agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.
- 11.5 **Time of Essence.** Time will be of the essence in respect of this agreement.
- 11.6 **Enurement.** This agreement shall enure to the benefit of and be binding upon the Owner and its successors and trustees, and this agreement shall charge and run with the Lands and with any parcel, lot or part into which the Lands may be subdivided or consolidated and shall enure to the benefit of and be binding upon the Owner's successors in title and trustees and successors and all parties claiming through such owners.
- 11.7 **City's Other Rights and Obligations.** Nothing contained or implied in this agreement will derogate from the obligations of the Owner under any other agreement with the City or 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 other laws, 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.
- 11.8 **Headings.** The division of this agreement into articles, sections and paragraphs and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this agreement.
- 11.9 **Number.** Words contained herein 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.
- 11.10 **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.
- 11.11 **Severability.** All provisions of this agreement are severable in that if any court or other lawful authority having jurisdiction to decide the matter finds for any reason that one or

more of them is void or unenforceable, then such void or unenforceable provisions will be severed from this agreement and all other provisions herein will continue to be binding and enforceable.

- 11.12 **City Approvals.** In this agreement, where City "approval", "acceptance", "consent" or similar authorization or agreement is required, unless provided for otherwise in this agreement, such "approval", "acceptance", "consent" or similar City agreement or authority must be provided in writing, by the City departments, employees, officers or designates, as the case may be, that are authorized to provide such "approval", "acceptance", "consent" or similar authorization or agreement. Any purported "approval", "acceptance" "consent" or similar authorization or agreement provided by a City department, employee, officer or designate, as the case may be, that is not authorized to provide the same, shall be of no force or effect.

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

BCOS 922-025



THIS PLAN LIES WITHIN THE JURISDICTION OF THE APPROVING OFFICER FOR THE CITY OF VANCOUVER

THIS FIELD SHEET WAS COMPLETED ON 2014

**DRAFT**

INTEGRATED SURVEY AREA No. 31  
(CITY OF VANCOUVER) M4083 (CRS)

GRID BEARINGS ARE DERIVED FROM GEODETIC CONTROL MONUMENTS V-2600 AND V-3150

THIS PLAN SHOWS HORIZONTAL GROUND-LEVEL DISTANCES, ALL BY THE AVERAGE CORRECTED FACTOR OF 0.9999564 WHICH HAS BEEN DERIVED FROM T-1500 AND T-1510.

**LEGEND**

FOUND PLACED

- GEODETIC CONTROL MONUMENT
- GEODETIC STANDARD IRON POST
- GEODETIC LEAD PILE
- m<sup>2</sup> DENOTES SQUARE METRES
- PP DENOTES POSTING PLAN
- PP DENOTES WITNESS

NOTE: THIS PLAN IS THE PRODUCT OF THIS PROFESSIONAL SURVEYOR'S FIELD WORK AND THE BOUNDARY LINE UNLESS OTHERWISE NOTED.

THIS PLAN LIES WITHIN THE GREATER VANCOUVER REGIONAL DISTRICT

HERMON OKE + WILLIAMS  
PROFESSIONAL LAND SURVEYORS  
1000 WEST 10TH AVENUE, SUITE 200  
VANCOUVER, BC V6H 2K7  
Tel: 604-271-1122  
Fax: 604-271-1122  
www.heronoke.com  
Date: 2014-11-28  
Title: PHASE 2 SUBDIVISION PLAN

**CONSENT AND PRIORITY INSTRUMENT**

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA3549226 and the Assignment of Rents registered under number CA3549227;
- (b) "Existing Chargeholder" means the THE TORONTO-DOMINION BANK;
- (c) "New Charges" means the Section 219 Covenant, the Statutory Right of Way and the Equitable Charge and contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the meaning ascribed to them in the attached Terms of Instrument - Part 2.

For ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which the Existing Chargeholder acknowledges, the Existing Chargeholder:

- (i) consents to the Owner granting the New Charges to the City; and
- (ii) agrees with the City that the New Charges charge the Lands in priority to the Existing Charges in the same manner and to the same effect as if the Owner had granted the New Charges, and they had been registered against title to the Lands, prior to the grant or registration of the Existing Charges or the advance of any money under the Existing Charges.

To witness this consent and priority instrument, the Existing Chargeholder has caused its duly authorized signatories to sign the attached General Instrument - Part 1.

**END OF DOCUMENT**

**EXPLANATION****Heritage Designation By-law  
Re: 826 East Georgia Street**

At a public hearing on October 14, 2014, Council approved a recommendation to designate the structure and exterior envelope, of the improvements and exterior building materials of a building at 826 East Georgia Street as protected heritage property. Enactment of the attached By-law will achieve the designation.

Director of Legal Services  
October 28, 2014



826 East Georgia Street  
Thomas and Jessie Crawford House



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

**A By-law to designate certain real property  
as protected heritage property**

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

1. Council considers that the real property described as:

Structure and  
exterior envelope of  
the improvements  
and exterior  
building materials of  
heritage building

826 East Georgia Street  
Vancouver, B.C.

PID: 008-504-504  
LOT 6  
BLOCK 93  
DISTRICT LOT 181  
PLAN 196

has heritage value or heritage character, and that its designation as protected heritage property is necessary or desirable for its conservation.

2. Council designates the real property described in section 1 of this By-law as protected heritage property under Section 593 of the *Vancouver Charter*.

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

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Mayor


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

**EXPLANATION****Heritage Designation By-law  
Re: 737 Prior Street**

At a public hearing on October 14, 2014, Council approved a recommendation to designate the structure and exterior envelope, of the improvements and exterior building materials of a building at 737 Prior Street as protected heritage property. Enactment of the attached By-law will achieve the designation.

Director of Legal Services  
October 28, 2014

737 Prior Street  
The James McDonald House

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

**A By-law to designate certain real property  
as protected heritage property**

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

1. Council considers that the real property described as:

Structure and  
exterior envelope of  
the improvements  
and exterior  
building materials of  
heritage building

737 Prior Street  
Vancouver, B.C.

PID: 015-020-860  
LOT 33  
BLOCK 100  
DISTRICT LOT 181  
PLAN 196

has heritage value or heritage character, and that its designation as protected heritage property is necessary or desirable for its conservation.

2. Council designates the real property described in section 1 of this By-law as protected heritage property under Section 593 of the *Vancouver Charter*.

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

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor

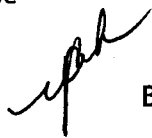
\_\_\_\_\_  
City Clerk

**EXPLANATION****Authorization to enter into a  
Heritage Revitalization Agreement  
Regarding 737 Prior Street**

At a public hearing held on October 14, 2014, Council resolved to enter into a By-law to authorize an agreement regarding 737 Prior Street, pursuant to Section 592 of the *Vancouver Charter*. Enactment of the attached By-law will achieve this.

Director of Legal Services  
October 28, 2014

737 Prior Street  
The James McDonald House



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 property, including terms and conditions to which Council and the owner may agree.

Certain property bearing the civic address of 737 Prior Street, and the following legal description:

PID: 015-020-860  
LOT 33  
BLOCK 100  
DISTRICT LOT 181  
PLAN 196

contains 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 property have agreed to facilitate such conservation, by agreeing to the terms and conditions set out in the attached Heritage Revitalization Agreement.

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

1. Council authorizes the City to enter into a Heritage Revitalization Agreement with the owner, in substantially the form and substance of the Heritage Revitalization Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the 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 \_\_\_\_\_, 2014

\_\_\_\_\_  
Mayor

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

**LAND TITLE ACT**  
**FORM C (Section 233) CHARGE**  
**GENERAL INSTRUMENT - PART 1 Province of British Columbia**

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.



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

Heidi Granger, Solicitor  
 City of Vancouver  
 453 West 12th Avenue  
 Vancouver BC V5Y 1V4

LTO Client number: 10647  
 Phone number: 604.829.2001  
 Matter number: 14-0262

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
 [PID] [LEGAL DESCRIPTION]

015-020-860 LOT 33 BLOCK 100 DISTRICT LOT 181 PLAN 196

STC? YES

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION

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 Annexed as Part 2  
 A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

RESTOMOD PROPERTIES INC.

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

CITY OF VANCOUVER  
 A MUNICIPAL CORPORATION  
 453 WEST 12TH AVENUE  
 VANCOUVER BRITISH COLUMBIA  
 V5Y 1V4 CANADA

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)  
  
 Michael C. Elias  
 NOTARY PUBLIC (ALBERTA)  
 140040303 JAGGER AVE  
 EDMONTON AB  
 T80 4296225

Execution Date		
Y	M	D
20	09	09
14		

Transferor(s) Signature(s)  
 RESTOMOD PROPERTIES INC.  
 by its authorized signatory(ies):  
  
 Name: \_\_\_\_\_  
  
 Name: \_\_\_\_\_

(as to both signatures)

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.

LAND TITLE ACT  
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Execution Date

Y	M	D
14		

Transferor / Borrower / Party Signature(s)

CITY OF VANCOUVER  
by its authorized signatory:

\_\_\_\_\_

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.



LAND TITLE ACT  
FORM E

SCHEDULE

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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Article 2

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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Statutory Right of Way		Article 4

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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Equitable Charge		Article 6

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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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**TERMS OF INSTRUMENT - PART 2**  
**HERITAGE REVITALIZATION AGREEMENT**

**WHEREAS:**

- A. The Owner (as herein defined) is the registered owner of the parcel of land at 737 Prior Street in the City of Vancouver (the "Lands") which has the legal description shown in the Form C - Part 1 part of this document.
- B. There is a building situated on the Lands, known as the "James McDonald House", which is considered to be of heritage value (the "Heritage Building").
- C. The Owner wishes to develop the Lands by:
- (i) rehabilitating the Heritage Building to be maintained as a one-family dwelling;
  - (ii) constructing on the Lands a new Infill One-Family Dwelling at the rear of the property,
- and under development permit application No. DE417628 (the "DP Application") has applied to the City for a development permit for that purpose.
- D. The Owner proposes that, in exchange for a number of variations to the City of Vancouver ("City") *Zoning & Development By-law* needed for the proposed project as contemplated under the DP Application, the Owner will enter into a heritage revitalization agreement in respect of the Heritage Building and accept the adding of the Heritage Building to the City's Heritage Register, in the 'C' category therein, and the designation of the Heritage Building as a protected heritage property under the provisions of the *Vancouver Charter* SBC 1953 c.55.

THEREFORE, pursuant to Section 592 of the *Vancouver Charter* SBC 1953 c.55, and in consideration of the payment ten dollars by the City to the Owner, the mutual obligations and benefits given herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

- 1.1 **Definitions.** In this agreement, unless explicitly used differently elsewhere herein, the terms defined in this section have the meanings given to them here:
- (a) "City" means the municipality of the City of Vancouver continued under the *Vancouver Charter* and "City of Vancouver" means its geographic location and area;
  - (b) "Conservation Plan" means a written plan and guidelines prepared by and/or under the supervision of a Heritage Consultant and explicitly accepted by the City

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Heritage Revitalization Agreement - James McDonald House  
737 Prior Street

for the rehabilitation and conservation of the Heritage Building as provided for hereunder;

- (c) **“Development”** means the proposed development project as described above in the introductory paragraphs hereto to rehabilitate the Heritage Building for continued use as a one-family dwelling and to construct a new Infill One-Family Dwelling on the Lands at the rear of the property pursuant to the DP Application;
- (d) **“Development Permit”** means any development permit(s) issued by the City under the DP Application in respect of the Development, as such permit(s) may be modified or amended from time to time, including, without limitation, all final reports, plans, drawings and specifications relating thereto;
- (e) **“Director of Planning”** means City’s Director of Planning appointed under the provisions of the *Vancouver Charter*;
- (f) **“DP Application”** has the meaning given above in the introductory paragraphs hereto;
- (g) **“Dwelling Unit”** has the meaning given under the *Zoning & Development By-law*;
- (h) **“Heritage Building”** has the meaning given above in the introductory paragraphs herein;
- (i) **“Heritage Consultant”** means an independent, heritage building rehabilitation and conservation expert, knowledgeable and experienced in and duly qualified for planning and supervising rehabilitation and conservation work for heritage buildings;
- (j) **“Heritage Designation”** means the City’s designation of the Heritage Building as a protected heritage property pursuant to section 593 of the *Vancouver Charter*;
- (k) **“Infill One-Family Dwelling”** has the meaning given under the *Zoning & Development By-law*;
- (l) **“Lands”** has the meaning given above in the introductory paragraphs hereto and includes any other parcels of land into which the Lands may at any time in any way be consolidated or subdivided;
- (m) **“Land Title Act”** means the *Land Title Act*, R.S.B.C. 1996, c.250;
- (n) **“New Building”** means the new Infill One-Family Dwelling contemplated for construction on the Lands under the DP Application as described in the introductory paragraphs hereto;
- (o) **“Owner”** means the registered owner or owners of the Lands and the successors and assigns thereof and, without limitation, if the Lands are subdivided by way of a strata plan under the *Strata Property Act* of British Columbia, then “Owner” includes the strata corporation thereby created;

- (p) "rehabilitate" and "rehabilitation" mean the planning and carrying out of restoration, rehabilitation, construction and conservation work to restore, upgrade, improve and conserve the structure, support and heritage characteristics and features of a heritage building or real property heritage feature so as to revitalize it and extend its life and use as such;
- (q) "Rehabilitation Work" has the meaning given below herein;
- (r) "Vancouver Charter" means the *Vancouver Charter*, S.B.C. 1953, c.55, 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;
- (s) "Zoning & Development By-law" means the City's *Zoning & Development By-law No. 3575* and any amendments thereto and replacements thereof.

**ARTICLE 2**  
**SECTION 219 COVENANT**  
**REHABILITATION AND CONSERVATION OF HERITAGE BUILDING**

2.1 Pursuant to Section 219 of the *Land Title Act*, the Owner covenants and agrees, as a covenant and agreement running with, charging and binding the Lands, that:

- (a) the Owner, at the Owner's expense, and to the satisfaction of the Director of Planning:
  - (i) within 24 months after the date upon which the Development Permit is issued, plus any additional time by which the date of expiry of the Development Permit may be extended under the provisions of the *Zoning and Development By-law*, but in any event by no later than 30 months after the date upon which this covenant is registered on title to the Lands, shall rehabilitate or cause the rehabilitation of the Heritage Building and shall do so in accordance with this agreement, the Development Permit and the Conservation Plan (the "Rehabilitation Work");
  - (ii) shall ensure that a Heritage Consultant supervises the Rehabilitation Work;
  - (iii) shall ensure that, at all times during the carrying out of the Rehabilitation Work, the Heritage Building is secure from vandalism and occupation by squatters; and
  - (iv) on completion of the Rehabilitation Work as required by this agreement, shall cause a Heritage Consultant to submit to the Director of Planning, a signed statement stating explicitly that the Rehabilitation Work has been completed in accordance with the Conservation Plan;
- (b) nobody will in any way use or occupy either the Heritage Building or the New Building or any part thereof and nobody will apply for or take any other action to compel the City, and, notwithstanding that either the Heritage Building or New Building may be ready for occupancy, the City will be under no obligation to issue any occupancy permit for either the Heritage Building or the New Building or any

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Heritage Revitalization Agreement - James McDonald House  
737 Prior Street

part thereof at any time after this agreement is registered on title to the Lands, until:

- (i) the Rehabilitation Work has been completed in accordance herewith;
  - (ii) the Owner, as required above herein, has submitted or caused to be submitted to the Director of Planning a signed written statement prepared by a Heritage Consultant stating explicitly that the Rehabilitation Work has been completed in accordance with the Conservation Plan; and
  - (iii) the City has given the Owner a written notice or confirmation by which the City explicitly accepts or confirms its acceptance that the Rehabilitation Work has been completed in accordance herewith;
- (c) the City may revoke at anytime any occupancy permit(s) issued for either the Heritage Building or the New Building prior to completion of the Rehabilitation Work, unless such occupancy permit(s) was obtained in accordance with this agreement, and in such circumstances the Owner, on reasonable notice from the City, will ensure that anyone occupying any part of any such building vacates it immediately on such revocation of occupancy permit(s), and if anyone continues to occupy any portion of any part of either the Heritage Building or the New Building in contravention of such revocation, this agreement and any applicable City bylaws, the City, at the Owner's expense, may pursue all remedies available to it, including, without limitation, injunctive relief, to ensure that either the Heritage Building or the New Building, as the case may be, is vacated and unoccupied in accordance with this agreement;
- (d) after completion of the Rehabilitation Work in accordance herewith, the Owner, at the Owner's expense, will do all things reasonably necessary to conserve the Heritage Building as rehabilitated and, in any event, keep it in good condition in all respects at all times;
- (e) at all times after and while this agreement is registered on title to the Lands, the Owner, at the Owner's expense, shall keep the New Building and the Heritage Building insured to its full replacement value against all perils, including, without limitation, damage or destruction by earthquake;
- (f) except for maintenance and repair work, the Owner will not and will not suffer or permit anyone else to do anything at anytime to renovate, alter, modify or reconfigure or that will result in any alteration, modification or reconfiguration of the Heritage Building in any way except as may be permitted or required by this agreement, the Conservation Plan and/or any development and/or heritage alteration permits issued by the City;
- (g) the Owner shall not at any time and shall not suffer or permit anyone else to at anytime do anything that will obscure, deface or remove in any way any heritage related commemorative plaque the City, at its expense, may attach to the Heritage Building pursuant to the statutory right of way granted to pursuant to Article 4 hereof;

- (h) if at any time for any reason the Heritage Building is damaged in any way or destroyed, the Owner, at the Owner's expense, and to the City's satisfaction, shall repair it or replace it with a replica building, except that if the Owner *bona fide* believes that to do so would be uneconomical, in which case, and if for that reason the Owner wishes to demolish it as damaged or wishes not to replicate it, as the case may be, the Owner, at the Owner's expense, and in consultation with and to the satisfaction of the City, will prepare an economic analysis therefor, but taking into consideration only land related economic factors, such as, for example, but without limitation, the estimated cost to repair or replicate the Heritage Building, as the case may be, the anticipated market value of the repaired or replicated building, the incentives given by the City for this agreement and the Heritage Designation, the estimated value of the Lands under the zoning otherwise applicable thereto, after which the City and the Owner, together, on the basis of that analysis, will determine whether in the circumstances it would be uneconomical to repair or replicate the Heritage Building, failing which the matter in all respects will be determined by arbitration in accordance with the provisions of the *Arbitration Act* RSBC 1996 c. 55, and if the Owner and the City agree or if in arbitration it is determined that it would be uneconomical for the Owner to be required to repair or replicate the Heritage Building, then, by explicit written notification, the City will consent to the Owner's wish to not repair or replicate the Heritage Building and will discharge this agreement from title to the Lands and the Owner may request of the City's Mayor and Council that the Heritage Designation be cancelled;
- (i) if at anytime, in default under this agreement, the Owner, in the City's opinion, fails to perform its obligations as required hereby to rehabilitate and conserve the Heritage Building and fails to rectify any such default within 30 days, or within such other longer time as the City may explicitly permit, after notice from the City to so rectify such default, the City, on the Owner's behalf and at the Owner's expense, may, but will be under not be obligated to, rectify the Owner's default; and
- (j) the Owner acknowledges and agrees that, notwithstanding that this agreement and the Heritage Designation will result in restrictions with respect to the future use and development and therefore may affect the value of the Lands, the Owner has received full and fair compensation therefor and the Owner hereby waives and renounces any and all claims for any further or other compensation by reason of this agreement and/or the Heritage Designation and acknowledges and agrees that the requirements of Section 595(1) of the *Vancouver Charter* SBC 1953 c.55 have been fully satisfied, and the Owner hereby releases the City and its officials, officers, employees and agents from any liability for any loss, injury, damage or expense of any kind the Owner may suffer, incur or experience and the Owner will indemnify the City for any loss, injury, damage or expense the City may incur, suffer or experience and for any complaint, demand, claim, action, suit or judgment for any loss, injury, damage or expense anyone else may suffer, incur or experience arising out of or in any way connected this agreement and/or the Heritage Designation. The release and promise of indemnification contained in this paragraph will survive discharge and termination of this agreement.

**ARTICLE 3  
LETTER OF CREDIT**

- 3.1 Notwithstanding the occupancy restrictions set out above in respect of the Heritage Building and the New Building, the City, in its discretion, may issue occupancy permits therefor and, on that basis, one or both of them may be occupied prior to the time that the Rehabilitation Work is completed in accordance herewith, provided:
- (a) the Owner duly applies to the City for any and all occupancy permits required therefor and pays all fees required therefor;
  - (b) this agreement has been fully registered in the Land Title Office to the City's satisfaction;
  - (c) the City has issued a building permit and/or heritage alteration permit in respect of the Rehabilitation Work;
  - (d) all legal requirements for occupancy of the New Building or the Heritage Building have been fulfilled;
  - (e) the Owner has delivered to the City, in all respects to the City's satisfaction, a letter of credit in the amount equal to 120% of the then estimated cost to complete the Rehabilitation Work, with such estimate to be made in writing by the Consultant and explicitly accepted in writing by the City;
  - (f) the Owner, at the time of application for any such occupancy permits, is not, in the City's opinion, in breach of any of its obligations under this agreement or any other agreement between the City and the Owner with respect to the Heritage Building, the New Building and/or the Lands; and
  - (g) the City, in its opinion, is satisfied that the Rehabilitation Work is being carried out diligently.
- 3.2 All letters of credit required under this Article will be issued by a Schedule I Canadian chartered bank or other financial institution acceptable to the City's Director of Legal Services and will be unconditional, irrevocable and self-renewing and otherwise in a form and content which is acceptable to the City and will be provided for a period of one year with a provision for an automatic renewal or extension without amendment from year to year.
- 3.3 The City may call upon the letter or letters of credit provided to it pursuant to the preceding paragraphs herein and apply the proceeds therefrom for any purpose and in any manner it may choose in connection with the Rehabilitation Work, 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 act of bankruptcy or becomes bankrupt or takes the benefit of any act or legislation that may be enforced for bankrupt or insolvent debtors;

- (c) the Owner, in the City's opinion, has not been diligently carrying out the Rehabilitation Work; or
  - (d) the City in any way undertakes all or any part of the Rehabilitation Work pursuant to this agreement.
- 3.4 Within a reasonable time of the Owner's request after completion of the Rehabilitation Work in accordance with this agreement, the City will, as the case may be, return to its issuer any letter of credit provided to the City hereunder or, if the City has called upon the letter of credit, deliver to the Owner any remaining balance therefrom.

**ARTICLE 4  
STATUTORY RIGHT OF WAY**

- 4.1 Pursuant to Section 218 of the *Land Title Act*, the Owner hereby grants to the City, effective at all times from and after the date upon which the City issues the Development Permit, a statutory right of way to enter, be and move about on the Lands:
- (a) to install, maintain, repair and replace on the exterior of the Heritage Building or at the perimeter of the Lands, at the City's expense, and in consultation with the Owner as to location, a commemorative plaque; and
  - (b) in the event the Owner, in the City's opinion, is in default of any of its obligations under this agreement to rehabilitate and conserve the Heritage Building, to carry out any such obligations of the Owner hereunder as the City may choose.
- 4.2 The statutory right of way granted in the preceding paragraph is necessary for the operation and maintenance of the City's undertaking.
- 4.3 Notwithstanding any other provision of this agreement, nothing herein obligates the City to exercise any of the rights granted to it by way of the statutory right of way contained herein.

**ARTICLE 5  
DEBTS OWED TO CITY**

- 5.1 If the City, pursuant to this agreement, enters upon the Lands or any of them to perform any of the Owner's obligations hereunder to carry out the Rehabilitation Work or to conserve, repair or replace or replicate the Heritage Building:
- (a) there will be no express or implied warranties as to the quality of any work the City may so carry out or the suitability of the materials for the purposes for which they are put; and
  - (b) the Owner will pay to the City, forthwith on demand, to the extent the City has not taken payment for such costs from any letters of credit provided to the City hereunder, as reimbursement for expenses incurred, the full amount of all costs the City incurs to carry out work to rehabilitate, conserve, repair or replace the Heritage Building, plus 20% of such costs as fair compensation for the City's overhead, and any such amounts the Owner does not pay or fails to pay to the City forthwith on demand will bear interest, until paid in full, at the prime lending rate



at the Bank of Montreal's main branch in the City of Vancouver, plus three percent, calculated monthly and not in advance.

**ARTICLE 6  
EQUITABLE CHARGE**

- 6.1 The Owner hereby 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.
- 6.2 The equitable charge the Owner has granted to the City herein may be enforced by the appointment of a receiver for the sale of the Lands.

**ARTICLE 7  
BY-LAW VARIATIONS**

- 7.1 Section 10 of the *Zoning & Development By-law* is hereby varied as follows for the Lands, for purposes of the Development:
- (a) Section 10.7.1(a) is varied to permit steps in any side yard thereon, subject to approval of the Director of Planning; and
  - (b) Section 10.7.1(b) is varied to permit eaves, gutters, sills and chimneys and other similar projections to project into a required or permitted side yard, provided that the Director of Planning is satisfied that they correspond to drawings approved under the DP Application.
- 7.2 The RT-3 District Schedule to the *Zoning & Development By-law* is hereby varied as follows for the Lands, for purposes of the Development:
- (a) Section 4.1.1 shall not apply as the site is approximately 307 m<sup>2</sup> (3,300 square feet) in area;
  - (b) Section 4.4.1 is varied to permit a front yard to be a minimum depth of 4.6 metres (15 feet) which is existing;
  - (c) Section 4.5 is varied to permit a side yard to be a minimum width of 0.5 metres (1.6 feet) which is the minimum existing;
  - (d) Section 4.7.1 is varied to provide for a floor space ratio of approximately 0.83 which is a maximum of 2,739 square feet or ten percent over what is permitted; and
  - (e) Section 4.17 regarding external design requirements shall not apply.

**ARTICLE 8  
SUBDIVISION**

- 8.1 **Subdivision.** If the Lands are subdivided at any time hereafter either under the provisions of the *Land Title Act* or under the *Strata Property Act* or under other similar legislation

enacted from time to time then upon the deposit of a plan of subdivision, strata plan, or similar plan as the case may be:

- (a) subject to Section 8.2 herein, the rights and benefits of this Agreement herein granted will be annexed to and run with each of the new parcels, lots, or other subdivided parcels and areas so created; and
- (b) subject to Section 8.3 herein, the burdens, obligations, covenant, statutory right of way and equitable charge contained in this Agreement will continue to charge each of the new parcels, lots, or other subdivided parcels and areas so created.

8.2 **Subdivision by Strata Plan.** If the Lands, or any portion thereof, are subdivided by a strata plan, this Agreement will charge title to the strata lots and the common property comprising such strata plan and:

- (a) the Section 219 Covenant and obligations therein and the Statutory Right of Way and Equitable charge granted herein will be registered against each individual strata lot and noted on the common property sheet;
- (b) the strata corporation or the strata corporations created will perform and observe the Owner's covenants in this Agreement, solely 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 herein will be in proportion to the unit entitlement of his, her or its strata lot as established by the strata plan,

provided that, if the Lands are first subdivided by air space plan and then one or more of these parcels are further subdivided by strata plan, the easements and covenants registered concurrently with the air space plan may designate the air space parcel or the remainder, and therefore the strata corporation, responsible to perform and observe the Owner's covenants in this Agreement.

8.3 Should the Lands be subdivided pursuant to the *Land Title Act* to create a parcel in which only the New Building is located, then at the Owner's request after the Rehabilitation Work has been completed in accordance with this agreement, the City, at the Owner's expense, will discharge from title to the newly created parcel containing the New Building the Section 219 Covenant, the Statutory Right of Way and the Equitable Charge contained in this agreement and will request of the Registrar of the Land Title Office that all legal notations referring to this agreement and the Heritage Designation be removed from title to the parcel containing the New Building.

#### ARTICLE 9 NOTICES

9.1 Any notice, request or communication required or permitted to be given hereunder will be in writing and will be deemed to have been duly given if delivered to the party or mailed in Canada by prepaid registered post addressed to the party as follows:

- (a) if to the Owner, to the Owner's address as shown in the Land Title Office records; and

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Heritage Revitalization Agreement - James McDonald House  
737 Prior Street

(b) if to the City:

**City of Vancouver**  
453 West 12<sup>th</sup> Avenue  
Vancouver, BC V5Y 1V4

*Attention: City Clerk and Director of Legal Services,*

or to such other address in Canada as any party may specify in writing to the other parties, provided that if and when the owner of the Lands or any part thereof should change, then to the address as set out in the State of Title Certificate for the Lands or such part thereof, and such notice will be deemed to have been received, if delivered, on the date of delivery, and if mailed as aforesaid within Canada then on the third business day following its mailing, provided that if mailed, should there be between the time of the mailing and the actual receipt of the notice, a mail strike, slowdown or other labour dispute which might affect delivery of such notice, then such notice will only be effective if and when actually delivered.

**ARTICLE 10  
GENERAL**

- 10.1 **Joint and Several Liability.** If the Owner is more than one party, such parties shall be jointly and severally liable to the City for the performance and observance of the Owner's obligations in this agreement.
- 10.2 **Priority of Registration.** The Owner, at his, her or its expense, after execution of this agreement, shall 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 encumbrances on title to the Lands as the City may require.
- 10.3 **Perfection of Intention.** The parties hereto will do such things and execute such further and other documents and instruments and do such further and other acts as may be reasonably necessary to implement and carry out the provisions and intent of this agreement and to ensure timely and effective registration in the Land Title Office.
- 10.4 **Waiver.** No failure on the part of the City to exercise and no delay in exercising any right under this agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.
- 10.5 **Time of Essence.** Time will be of the essence in respect of this agreement.
- 10.6 **Enurement.** This agreement shall enure to the benefit of and be binding upon the Owner and its successors and trustees, and this agreement shall charge and run with the Lands and with any parcel, lot or part into which the Lands may be subdivided or consolidated and shall enure to the benefit of and be binding upon the Owner's successors in title and trustees and successors and all parties claiming through such owners.

- 10.7 **City's Other Rights and Obligations.** Nothing contained or implied in this agreement will derogate from the obligations of the Owner under any other agreement with the City or 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 other laws, 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.
- 10.8 **Headings.** The division of this agreement into articles, sections and paragraphs and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this agreement.
- 10.9 **Number.** Words contained herein 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.
- 10.10 **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.
- 10.11 **Severability.** All provisions of this agreement are severable in that if any court or other lawful authority having jurisdiction to decide the matter finds for any reason that one or more of them is void or unenforceable, then such void or unenforceable provisions will be severed from this agreement and all other provisions herein will continue to be binding and enforceable.
- 10.12 **City Approvals.** In this agreement, where City "approval", "acceptance", "consent" or similar authorization or agreement is required, unless provided for otherwise in this agreement, such "approval", "acceptance", "consent" or similar City agreement or authority must be provided in writing, by the City departments, employees, officers or designates, as the case may be, that are authorized to provide such "approval", "acceptance", "consent" or similar authorization or agreement. Any purported "approval", "acceptance" "consent" or similar authorization or agreement provided by a City department, employee, officer or designate, as the case may be, that is not authorized to provide the same, shall be of no force or effect.

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

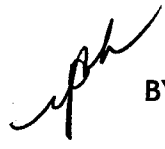
END OF DOCUMENT

## EXPLANATION

**2014 Boundary Road Maintenance Agreement By-law**

The attached By-law will implement Council's resolution of October 14, 2014 to enter into an agreement with the City of Burnaby concerning the continuing maintenance of Boundary Road, to take effect upon the adoption of a By-law by each of Vancouver and Burnaby.

Director of Legal Services  
October 28, 2014



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

**A By-law to authorize the Boundary Road maintenance agreement  
between City of Vancouver and City of Burnaby**

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

1. Council approves the agreement between the City of Vancouver and City of Burnaby relating to the maintenance of Boundary Road, a copy of which agreement is attached to and forms part of this By-law.
2. Council repeals By-law No. 9713.
3. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Mayor

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

**BOUNDARY ROAD MAINTENANCE AGREEMENT**

THIS AGREEMENT made to be effective as of \_\_\_\_\_, 2014.

**BETWEEN:**

**CITY OF VANCOUVER**, a municipal corporation,  
having offices at 453 West 12th Avenue,  
in the City of Vancouver,  
in the Province of British Columbia,  
V5Y 1V4

(hereinafter called "Vancouver")

OF THE FIRST PART

**AND:**

**CITY OF BURNABY**,  
4949 Canada Way, in the Municipality of  
Burnaby, Province of British Columbia.  
V5G 1M2

(hereinafter called "Burnaby")

OF THE SECOND PART

**WHEREAS:**

- A. Boundary Road (as hereinafter defined) straddles the legal boundary between Vancouver and Burnaby;
- B. The legal boundary line between Vancouver and Burnaby is variable and is not consistently at the Agreed Boundary (as hereinafter defined) of Boundary Road;
- C. Vancouver and Burnaby wish to continue sharing responsibility for the maintenance of Boundary Road and have agreed to enter into this Agreement to better define each party's responsibilities regarding the maintenance of Boundary Road; and
- D. This Agreement will serve to continue the parties previous agreements to share the costs and maintenance responsibilities for Boundary Road, pursuant to an agreement dated January 1, 1998 and which was extended to June 30, 2003 and then further extended by an extension agreement from July 1, 2003 to June 30, 2008 and by an agreement dated July 1, 2008 to June 30, 2013 which was further extended to the effective date of this Agreement.

NOW THEREFORE WITNESSETH that in consideration of the covenants and agreements contained herein, the sum of Five (\$5.00) Dollars (the receipt and sufficiency whereof is hereby acknowledged by the parties) the parties hereto covenant and agree as follows:

1. The following terms shall have the meaning hereinafter specified and the definitions given herein shall be applicable to the singular, plural and possessive for the terms defined:

- (a) "Agreed Boundary" means the following:
- (i) the north/south centre line connecting the midpoints between the curbs or edges of the median for the divided roadway portion of Boundary Road;
  - (ii) the north/south yellow painted traffic line for the portion of Boundary Road which is not divided by a raised median;
  - (iii) the north/south line connecting the midpoints between the edges of the roadway surface for the undivided and unmarked portion of Boundary Road; and
  - (iv) the north/south lines across each of the intersections of Boundary Road connecting the end points of the centre lines and the yellow painted traffic lines defined above; except for the six (6) areas listed below where the Agreed Boundary shall be located as indicated in Schedules "A", "B", "C", "D" and "E" attached hereto which schedules and corresponding Agreed Boundary shall be subject to change from time to time hereafter to reflect changes made to the geometry of the intersections:
 

Adanac Street, Price Street, Regent Street, Canada Way,  
Schou Street, Boundary Road south of Kent Avenue South;
- (b) "Boundary Road" means that portion of the street known as Boundary Road between Fellowes Street on the north and the Fraser River on the south;
- (c) "Maintenance" means the maintaining of the various facilities to a standard equivalent to the standard that existed at the date of this Agreement including but not limited to all surface repairs, inspections necessary, snow removal and street cleaning, landscaping, grass cutting and litter cleanup, but does not include the complete or substantial replacement of any of the facilities covered by this Agreement;
- (d) "Shared Facilities" means:
- (i) surfaces of the medians and traffic islands which straddle the Agreed Boundary, including but not limited to: grass, sidewalks, hard surfaces and trees;
  - (ii) yellow painted traffic line of the portion of Boundary Road which is not divided by a raised median;



- (iii) pedestrian and vehicle overpasses;
  - (iv) traffic and pedestrian signals, controllers and wiring;
  - (v) street lighting that connects from Vancouver to Burnaby;
- (e) "Non Shared Facilities" means the following:
- (i) pavement structures, curb and gutter and related drain tile and catch basin leads; and
  - (ii) other facilities including signs, painted pavement markings, boulevard landscaping, fences, guard rails, retaining walls and sidewalks with the exception of sidewalks and hard surfaces on the medians and traffic islands straddling the Agreed Boundary; and
- (f) "Street Lighting" means street lighting poles, luminaries, conduits, service panels and all wiring.

2. The term of the Agreement shall commence on \_\_\_\_\_ and shall continue in full force and effect until \_\_\_\_\_ (the "Term") unless extended by further agreement of the parties.

3. Vancouver and Burnaby agree that either party may terminate this Agreement upon giving the other party six (6) months written notice of such termination at any time during the Term or any renewal thereof and no compensation shall be payable by either party on account of such termination. Notwithstanding the above, any amounts payable by either party to the other as a result of or incidental to any Maintenance work done prior to the effective date of the termination shall continue to be due and owing and shall survive the early termination of this Agreement

4. Vancouver and Burnaby agree that the Agreed Boundary will be the dividing line between Vancouver and Burnaby for maintenance purposes. The Maintenance of the Non Shared Facilities east of the Agreed Boundary shall be the responsibility of Burnaby and the maintenance of the Non Shared Facilities west of the Agreed Boundary shall be the responsibility of Vancouver. Provided however, if the Maintenance of the Non Shared Facilities can be more expediently carried out by the adjoining municipality then the parties hereto may agree to permit the other to carry out such Maintenance and shall invoice the other party at a cost to be agreed upon.

5. Vancouver and Burnaby agree that the responsibility for the Maintenance of the following Shared Facilities shall be as follows:

- (a) surfaces of medians and traffic islands which straddle the Agreed Boundary including grass, sidewalks, hard surfaces and trees within these medians and traffic islands: Burnaby shall be responsible for the Maintenance south of the centre line of the Lougheed Highway and Vancouver shall be responsible for the Maintenance north of the centre line of the Lougheed Highway;
- (b) the yellow painted traffic line of the portion of Boundary Road which is not divided by raised medians shall be the responsibility of Vancouver;
- (c) the pedestrian and vehicle overpasses on Boundary Road shall be the responsibility of Vancouver;
- (d) traffic and pedestrian signal plant on Boundary Road shall be the responsibility of Vancouver; and
- (e) the Street Lighting on Boundary Road:
  - (i) Vancouver shall be responsible for Maintenance of the Street Lighting from 29th Avenue to Price Street and from Kingsway to Kent Avenue South on both sides of the Agreed Boundary; and
  - (ii) the remainder of the Street Lighting shall be the sole responsibility of the municipality on which side of the Agreed Boundary that the Street Lighting is located on.

6. Vancouver and Burnaby agree to share equally the Maintenance costs of the Shared Facilities as set out in paragraphs 5, (b), (c), (d) and (e)(i). The party responsible for any particular Maintenance, in accordance with paragraph 5 (defined herein as the "Billing Party"), shall have the right to demand payment and to invoice the other party for fifty (50%) percent of such Maintenance costs incurred, itemized by the type of work performed, as outlined in paragraph 1(d) of this Agreement, and calculated by including the following charges:

- (a) labour based on wage rates plus fringe benefits for time spent upon the Maintenance;
- (b) material and equipment used in the Maintenance;
- (c) energy costs for the traffic signals and shared Street Lighting;
- (d) normal overhead charges which shall be calculated at fifteen (15%) percent of the total of paragraph 6 (a), (b) and (c); and
- (e) all applicable taxes including any Goods and Services Taxes payable.

Notwithstanding the foregoing, Vancouver or Burnaby, in the sole discretion of the respective Billing Party, may, in the alternative to calculating the Maintenance costs

on the basis of paragraphs 6(a) to 6(e), inclusive, in respect of the Street Lighting located only on Boundary Road, invoice the other party for work done, Maintenance costs incurred and any other expenses related to Street Lighting on Boundary Road on the basis of a "Standard Maintenance Unit Cost" plus all applicable taxes, including GST. For purposes of this Agreement the Standard Maintenance Unit Cost shall be calculated by the Billing Party using a cost averaging formula whereby the Standard Maintenance Unit Cost is equal to the total Maintenance costs incurred by either Vancouver or Burnaby, respectively, with respect to all Street Lighting in their respective city divided by the number of Street Lights in the respective city. This Standard Maintenance Unit Cost will then be multiplied by the number of street lights on Boundary Road being maintained by the respective Billing Party. Vancouver and Burnaby agree that in billing or invoicing the other party on the basis of the Standard Maintenance Unit Cost such invoices shall be subject to the party being invoiced having the right to verify or to have the Billing Party verify the actual costs incurred by the Billing Party in carrying out similar work related to their Street Lighting located other than on Boundary Road.

7. The completion and cost of the Maintenance of any of the Non Shared Facilities that straddle the Agreed Boundary will be negotiated between Vancouver and Burnaby on a case by case basis.

8. Vancouver and Burnaby agree that the responsibility and liability for the design of Boundary Road shall be shared equally between Vancouver and Burnaby.

9. Vancouver and Burnaby hereby grant each to the other, its respective contractors, subcontractors, employees, agents and officials the right to enter, labour, pass, repass, work and be in, on, under and over the other's property on Boundary Road with or without vehicles, tools, supplies, materials and equipment and supplies for any purpose connected with the performance by each of them of Maintenance services referred to in this Agreement.

10. Vancouver covenants and agrees with Burnaby that in the event that Vancouver's contractors or subcontractors, employees or agents shall cause damage to Burnaby's property during the carrying out of any Maintenance pursuant to this Agreement and does not forthwith repair, Burnaby may complete such repairs as necessary and Vancouver shall make payment for all such repair and cost of Burnaby forthwith upon receipt of an invoice.

11. Burnaby covenants and agrees with Vancouver that in the event that Burnaby's contractors or subcontractors, employees or agents shall cause damage to Vancouver's property during the carrying out of any Maintenance pursuant to this Agreement and does not forthwith repair, Vancouver may complete such repairs as necessary and Burnaby shall make payment for all such repair and cost of Vancouver forthwith upon receipt of an invoice.

12. Burnaby shall indemnify and hold harmless Vancouver and its officers, officials, employees, contractors, subcontractors, licensees and agents (the "Vancouver Personnel") from and against all losses, damages, debts, costs, expenses, actions, causes of action, claims, demands and judgments (collectively referred to in

#166035v1

this paragraph 12 as "Losses") suffered or incurred by Vancouver or any Vancouver Personnel, or made or instituted by any person against Vancouver or any Vancouver Personnel, in any way connected with this Agreement for the failure of Burnaby to carry out the Maintenance obligation set out herein or any Losses caused by the negligent performance by Burnaby of its Maintenance obligations pursuant to this Agreement. This indemnity survives the termination of this Agreement.

13. Vancouver shall indemnify and hold harmless Burnaby and its officers, officials, employees, contractors, subcontractors, licensees and agents (the "Burnaby Personnel") from and against all losses, damages, debts, costs, expenses, actions, causes of action, claims, demands and judgments (collectively referred to in this paragraph 13 as "Losses") suffered or incurred by Burnaby or any Burnaby Personnel, or made or instituted by any person against Burnaby or any Burnaby Personnel, in any way connected with this Agreement for the failure of Vancouver to carry out the Maintenance obligation set out herein or any Losses caused by the negligent performance by Vancouver of its Maintenance obligations pursuant to this Agreement. This indemnity survives the termination of this Agreement.

14. Any notice, approval or request given under this Agreement may be well and adequately given if served personally upon any officer of the party for whom it is intended or mailed by prepaid registered mail from any post office in British Columbia and in the case of Vancouver addressed to it at:

City Clerk  
City of Vancouver  
453 West 12th Avenue  
Vancouver, British Columbia  
V5Y 1V4

with a copy to:

City Engineer  
City of Vancouver  
453 West 12th Avenue  
Vancouver, British Columbia  
V5Y 1V4

and in the case of Burnaby addressed to it at:

City Clerk  
City of Burnaby  
4949 Canada Way  
Burnaby, British Columbia  
V5G 1M2

or at such other address as the parties may from time to time advise by notice in writing. The date of receipt of any such notice, approval or request shall be deemed to be the date of delivery of such notice, approval or request if served personally or, on the third business day next following the date of such mailing if mailed as aforesaid,

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provided that if mailed should there be, between mailing and the actual receipt of such notice, approval or request, a mail strike, slowdown or other labour dispute which might affect the delivery of such notice, approval or request, such notice, approval or request shall only be affected if actually delivered.

15. If any portion of any section of this Agreement or if any section of this Agreement is declared by a court of competent jurisdiction to be void or unenforceable then that portion of that section or that section shall be severed from the balance of this Agreement and the balance of this Agreement shall survive and be enforceable.

16. The parties hereto shall do such things and execute such documents and in such form necessary in order to perfect the intention of this Agreement.

17. Neither party to this Agreement may assign this Agreement nor any of its rights hereunder without the prior written consent of the other, which consent may be arbitrarily withheld.

18. The failure of either of the parties hereto to insist upon performance of any covenant or condition contained in this Agreement or to exercise any right or option hereunder shall not be construed or operate as a waiver or relinquishment for the future of any such covenant, condition, right or option and no waiver shall be inferred from or implied by anything done or admitted to be done by either of the parties hereto save an expressed waiver in writing.

19. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors, administrators and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto caused their respective seals to be affixed under the hands of their proper officers duly authorized in that behalf as of the day and year first above written.

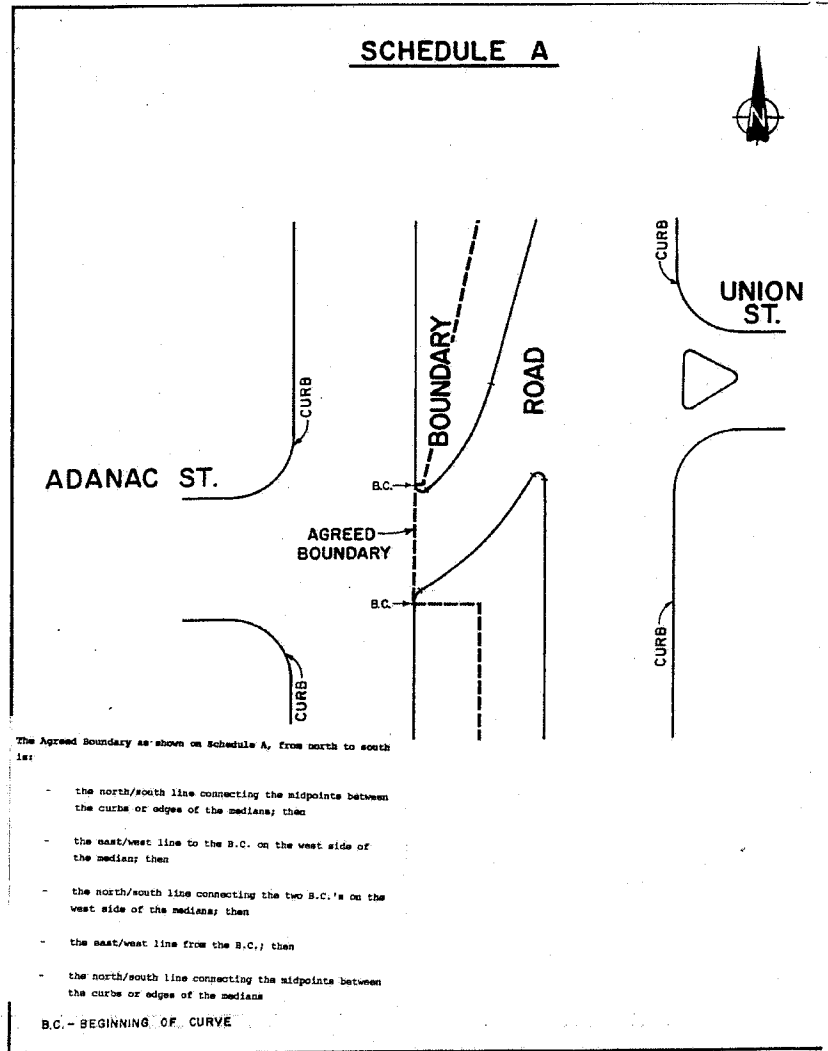
**CITY OF VANCOUVER** by its  
authorized signatory(ies):

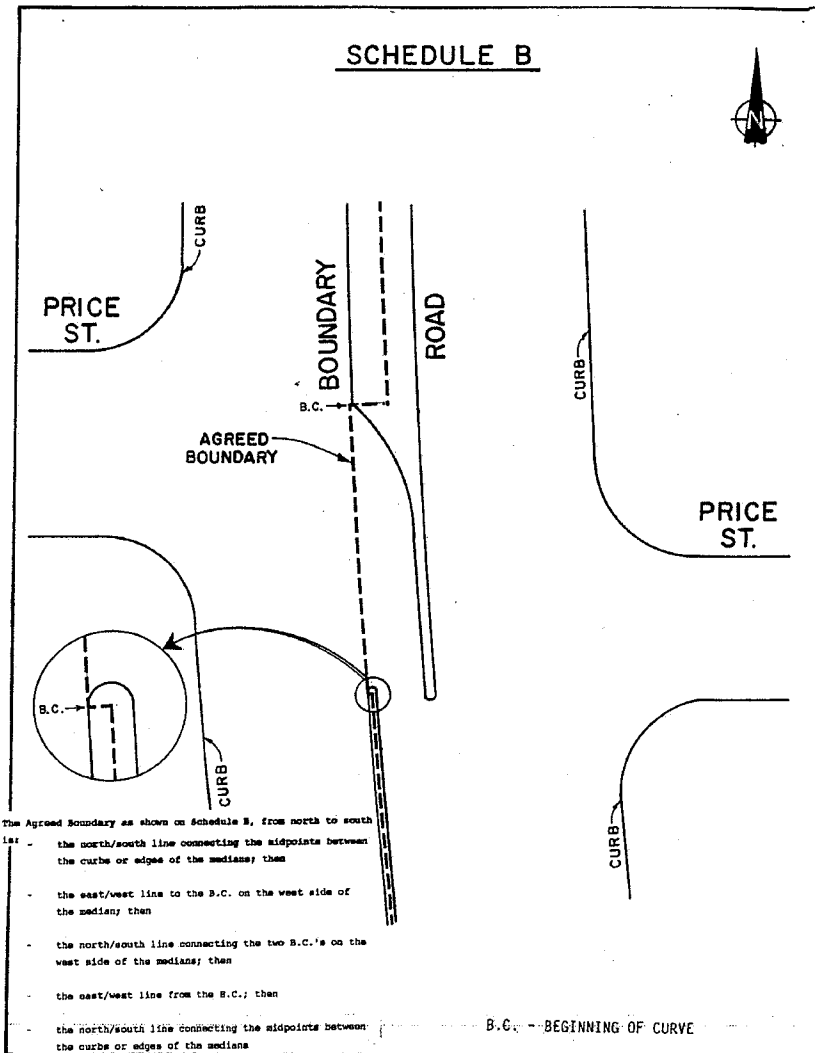
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**CITY OF BURNABY** by its  
authorized signatory(ies):

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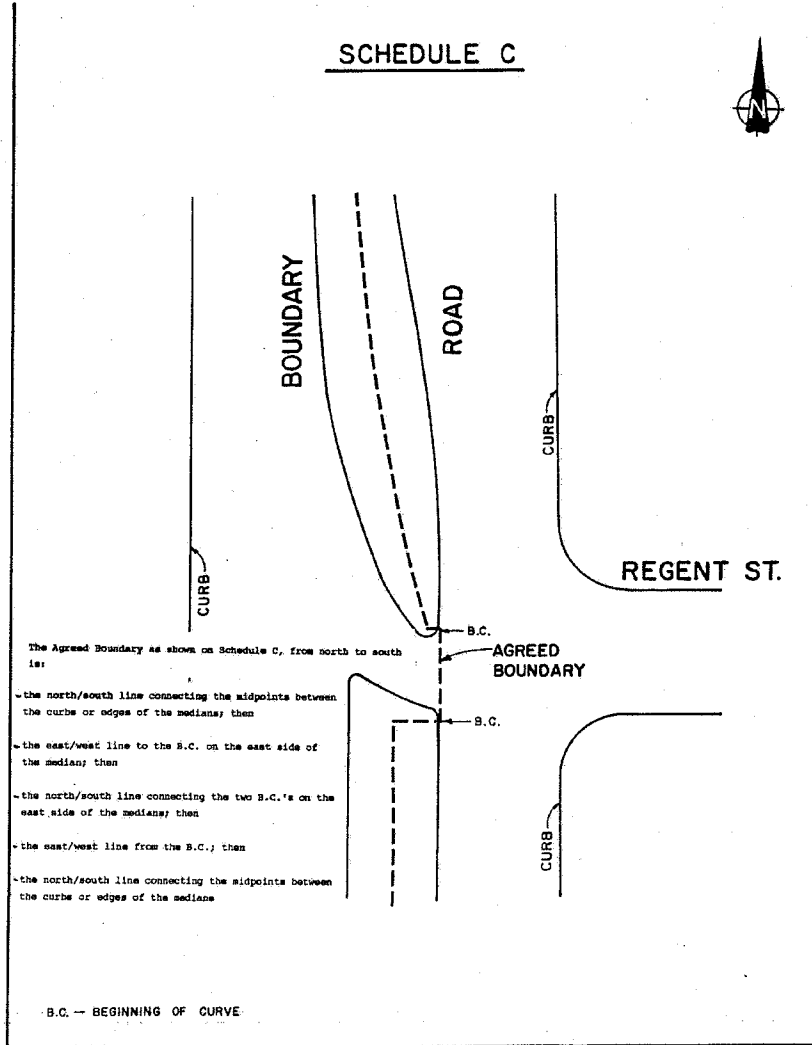


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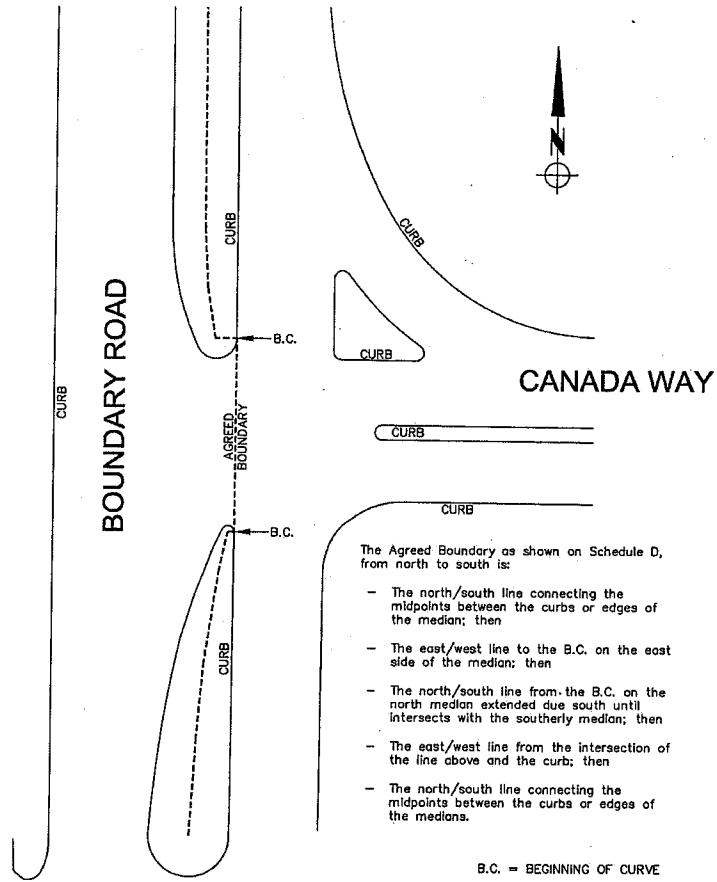
City of Burnaby  
Boundary Road Maintenance Agreement



SCHEDULE C



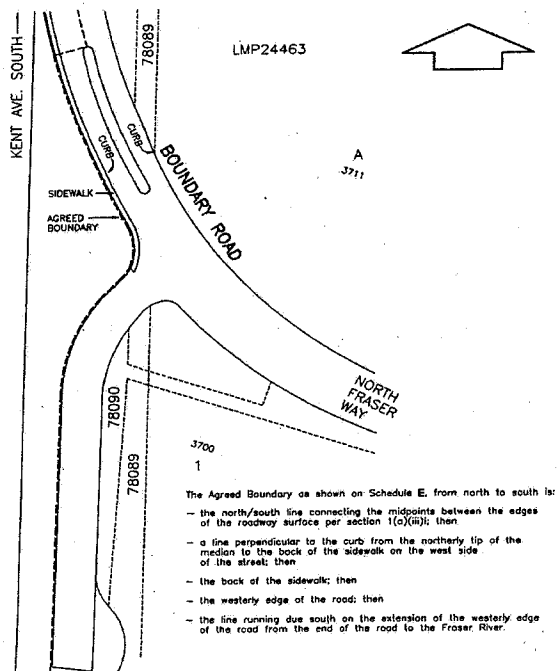
SCHEDULE D



SCALE: N.T.S.

#166035v1

SCHEDULE E



#166035v1

## EXPLANATION

**Authorization to enter into a Housing Agreement  
Re: 960 - 968 Kingsway and 955 East 19th Avenue**

Following Public Hearing on February 18, 2014, Council approved the application of the owner applicant to redevelop the above-referenced lands with a six (6) storey commercial and residential building with forty-four (44) rental dwelling units to be secured as for profit-affordable rental housing, subject to a number of conditions, including a condition that the owner of these lands first make arrangements to the satisfaction of the Managing Director of Social Development and the Director of Legal Services to secure all forty-four (44) residential units as rental housing for 60 years or life of the building, whichever is greater, and subject to a number of other specified conditions.

A Housing Agreement has been accepted and signed by the owner applicant. Enactment of the attached By-law, as required by section 565.2 of the *Vancouver Charter*, will complete the process to implement Council's condition regarding a Housing Agreement.

Director of Legal Services  
October 28, 2014

960-968 Kingsway and 955 East 19th Avenue



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

**A By-law to enact a Housing Agreement  
for 960-968 Kingsway and 955 East 19th Avenue**

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

1. Council authorizes the City to enter into a Housing Agreement with the owner of certain lands described as:

No PID number	Lot 1
	Block 65
	District Lot 301
	Plan EPP44105

in substantially the form and substance of the Housing Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the 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 \_\_\_\_\_, 2014

\_\_\_\_\_  
Mayor

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

Schedule A

LAND TITLE ACT  
 FORM C (Section 233) CHARGE  
 GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 17 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.



1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)  
**Cobbett & Cotton Law Corporation**  
 300 - 410 Carleton Avenue  
 Burnaby BC V5C 6P6  
 File 66737-Vishi - LTO # 010457  
 Robert Halifax, Auth Agent, Phone 604-299-0230  
 #14-0503-002 (Housing Agreement)  
 Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
 [PID] [LEGAL DESCRIPTION]  
**NO PID NMBR LOT 1 BLOCK 65 DISTRICT LOT 301 PLAN EPP44105**  
 STC? YES  
 Related Plan Number: **EPP44105**

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION  
**SEE SCHEDULE**

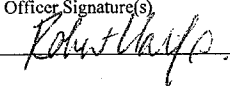
4. TERMS: Part 2 of this instrument consists of (select one only)  
 (a)  Filed Standard Charge Terms D.F. No. (b)  Express Charge Terms Annexed as Part 2  
 A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):  
**SEE SCHEDULE**

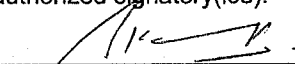
6. TRANSFEREE(S): (including postal address(es) and postal code(s))  
**CITY OF VANCOUVER**  
 453 WEST 12TH AVENUE  
 VANCOUVER BRITISH COLUMBIA  
 V5Y 1V4 CANADA

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)  
  
 Robert F. Halifax  
 BARRISTER AND SOLICITOR  
 #300-410 Carleton Ave.  
 Burnaby, British Columbia  
 V5C 6P6 604-299-6251

Execution Date		
Y	M	D
14	10	02

Transferor(s) Signature(s)  
**VISHI CONSTRUCTION LTD.** by its  
 authorized signatory(ies):  
  
 Print Name: **Sudershan Gupta**

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.

Officer Signature(s)

\_\_\_\_\_



ANDREW T. EMERSON  
BARRISTER & SOLICITOR  
#208 - 1899 Willingdon Avenue  
Burnaby, British Columbia  
V5C 5T1 299-8371

\_\_\_\_\_

Execution Date

Y M D

14 10

14 10

8

Transferor / Borrower / Party Signature(s)

CITY OF VANCOUVER by its  
authorized signatory:

\_\_\_\_\_

GREATER VANCOUVER  
COMMUNITY CREDIT UNION by its  
authorized signatory(ies):

Print Name: \_\_\_\_\_

  
P. Moore

Print Name: \_\_\_\_\_

  
Balbir Bains

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.





**LAND TITLE ACT  
FORM E**

**SCHEDULE**

PAGE 4 OF 17 PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

**5. TRANSFEROR(S):**

VISHI CONSTRUCTION LTD. (Incorporation No. 361121)

and

GREATER VANCOUVER COMMUNITY CREDIT UNION (Registration No. FI40) (AS TO PRIORITY)

## TERMS OF AGREEMENT - PART 2

HOUSING AGREEMENT AND BUILDING USE COVENANT  
960 - 960 KINGSWAY and 955 EAST 19<sup>TH</sup> AVENUE

## WHEREAS:

A. It is understood and agreed that this instrument and Agreement, dated for reference May 9, 2014, will be read as follows:

- (i) the Transferor, Vishi Construction Ltd., is called the "Owner", as more particularly defined in section 1.1; and
- (ii) the Transferee, City of Vancouver, is called the "City" or the "City of Vancouver" when referring to corporate entity, and "Vancouver" when referring to geographic location;

B. The Owner is the registered and beneficial owner of the Lands which, prior to the consolidation and dedication required as conditions of rezoning approval, consisted of properties at 955 East 19th Avenue, 960 Kingsway and 968 Kingsway, Vancouver, British Columbia, formerly legally known and described as:

- (i) PID: 008-736-898, Lot 7 Block 65 District Lot 301 Plan 3940;
- (ii) PID: 008-736-910, Lot 8 Block 65 District Lot 301 Plan 3940; and
- (iii) PID: 008-736-936, Lot 9 Block 65 District Lot 301 Plan 3940;

C. The Owner has made an application to rezone (the "Rezoning Application") the Lands from C-2 (Commercial) District and RS-1 (One Family Dwelling) District to CD-1 (Comprehensive Development) District, to allow for a six storey commercial and residential building, with all 44 dwelling units to be secured as for-profit affordable rental housing;

D. The City's elected council has conditionally approved such application subject to the condition that the Owner, among other matters:

*Make arrangements to the satisfaction of the Managing Director of Social Development and the Director of Legal Services to secure all residential units as for-profit affordable rental housing units pursuant to the City's Short Term Incentives for Rental Housing (STIR) Program for 60 years or life of the building, whichever is greater, subject to a no separate-sales covenant and a non-stratification covenant, and subject to all such units being made available as rental housing for a term of not less than one month at a time, and on such other terms and conditions as the Managing Director of Social Development and the Director of Legal Services may require for such residential units to comply with the requirements of the STIR Program and in particular section 3.1A of the applicable Development Cost Levy By-Law.*

*The Housing Agreement to secure the rental units will include:*

- a. *A rent roll indicating the initial monthly rents for each rental unit;*

- b. *A covenant from the owner to submit, prior to issuance of an occupancy permit, a finalized rent roll to the satisfaction of the Managing Director of Social Development and Director of Legal Services that reflect the rental rates in the Housing Agreement on either a per unit or a per square foot basis in order to address potential changes in unit mix and/or sizes between the rezoning and development permit stage; and*
  - c. *Such other terms and conditions as the Director of Legal Services may require;*  
and
- E. The Owner is entering into this Agreement to satisfy the foregoing conditions.

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration (the receipt and sufficiency of which the parties hereby acknowledge and agree to) the Owner and the City, in satisfaction of the requirements of Section 3.1A of the Vancouver DCL By-law and pursuant to Section 565.2 of the *Vancouver Charter* and Section 219 of the *Land Title Act*, agree as follows, in respect of the use of the Lands and the Building:

#### ARTICLE 1 DEFINITIONS AND INTERPRETATIONS

1.1 Definitions. In this Agreement the following terms have the definitions now given:

- (a) "Agreement" means this Housing Agreement and Building Use Covenant, including the foregoing recitals;
- (b) "Building" means any new building or structure to be built on the Lands as contemplated by the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (c) "Building Permit" means any building permit issued by the City authorizing the building of a Building as contemplated by the Development Permit;
- (d) "City" and "City of Vancouver" means the Transferee, the municipality of the City of Vancouver continued under the *Vancouver Charter*;
- (e) "City Manager" means the chief administrator from time to time of the City and her successors in function and their respective nominees;
- (f) "City Personnel" means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (g) "Commencement Date" means the date as of which this Agreement has been executed by all parties to it;
- (h) "Development Permit" means the development permit issued by the City authorizing the development pursuant to development permit application

DE413541;

- (i) **“Director of Legal Services”** means the chief administrator from time to time of the City’s Legal Services Department and her/his successors in function and their respective nominees;
- (j) **“Dwelling Unit”** means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (k) **“For-Profit Affordable Rental Housing”** means a new building containing multiple dwelling units, which meets the requirements of Section 3.1A of the Vancouver DCL By-law to be for-profit affordable rental housing, but does not include alterations of or extensions to those dwelling units, and **“For-Profit Affordable Rental Housing Unit”** means any one of such units, which as of the Commencement Date means housing where:
  - (i) all dwelling units in the building are rental units;
  - (ii) no dwelling units are strata units;
  - (iii) the average size of the dwelling units is not greater than:
    - (A) 42 square meters for studio units;
    - (B) 56 square meters for one bedroom units; or
    - (C) 77 square meters for two bedroom units,
 except that the floor area used for stairways within two bedroom townhouse units of two or more storeys is excluded from the calculation of maximum unit size;
  - (iv) agreed upon average rents per unit type for initial occupancy do not exceed the following specified rents:
    - (A) \$1,443 per month for studio units;
    - (B) \$1,517 per month for one bedroom units;
    - (C) \$2,061 per month for two bedroom units,
 except that such rents shall be adjusted annually on January 1 to reflect the change in average rent for all residential units built since the year 2000 in the City as set out by the Canada Mortgage and Housing Corporation in the Rental Market Report published in the previous calendar year;
  - (v) the proposed construction costs for the rental residential floor area do not exceed \$2,475 per square meter, except that such costs shall be adjusted annually on January 1 to reflect any change in medium level construction costs for Residential Apartments as set out by Altus Group in the Construction Cost Guide published in the previous calendar year; and

- (vi) the owner of the property on which such housing is situate has registered against title to that property an instrument, in form and substance, and with priority of registration, satisfactory to the Director of Legal Services, ensuring the initial rents are in accordance with 3.1A (d) of the Vancouver DCL By-law, and restricting the tenure of such housing to rental for:
  - (A) the longer of the life of the building in which they are situate and 60 years, or
  - (B) such other term to which the City and owner may agree;
- (l) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c.250;
- (m) "**Lands**" means the parcel described in Item 2 in the Form C attached hereto;
- (n) "**Losses**" means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (o) "**Managing Director of Social Development**" means the chief administrator from time to time of the City's Social Development Department and his/her successors in function and their respective nominees;
- (p) "**Occupancy Permit**" means a permit issued by the City authorizing the use and occupation of any Building, development or partial development on the Lands;
- (q) "**Owner**" means the registered owner of the Lands, being Vishi Construction Ltd. as of the Commencement Date, and includes any and all of the his respective assigns and successors as registered or beneficial owner of the Lands;
- (r) "**Replacement Dwelling Unit**" has the meaning ascribed to that term Section 2.1(b);
- (s) "**Rezoning Application**" has the meaning ascribed to that term in Recital C;
- (t) "**Rezoning By-law**" means the by-law enacted pursuant to the Rezoning Application;
- (u) "**Term**" means the term of this Agreement, which will commence on the Commencement Date and will end on the later of:
  - (i) the 60 year anniversary of the Commencement Date; or
  - (ii) the date as of which the Building is demolished or substantially destroyed;
- (v) "**Vancouver DCL By-law**" means the City's Vancouver Development Cost Levy By-law No. 9755; and
- (w) "**Vancouver Charter**" means the *Vancouver Charter* S.B.C. 1953, c.55.

1.2 Interpretation. In this Agreement:

- (a) Party. Any reference to a party herein will be deemed to include the heirs, executors, administrators, successors, assigns, employees, servants, agents, officers, contractors, licensees and invitees of such parties wherever the context so permits or requires.
- (b) Singular; Gender. Wherever the singular or masculine or neuter is used in this Agreement, the same will be construed to mean the plural or the feminine or body corporate or politic, and vice versa, as the context or the parties so require.
- (c) Captions and Headings. The captions and headings appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any of the provisions hereof.
- (d) References. References to the or this "Agreement" and the words "hereof" "herein" and similar words refer to this Agreement as a whole and not to any section or subsection or other subdivision hereof and any reference in this Agreement to a designated Recital, Section, subsection or other subdivision is a reference to the designated Recital, Section, subsection or subdivision hereof.
- (e) 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 in British Columbia. Any reference to a statute is to the statute and its regulations in force on the date the Form C General Instrument - Part 1 is fully executed and to subsequent amendments to or replacements of the statute or regulations.
- (f) Legislation. Any reference to a statute or by-law includes and is a reference to such statute or by-law and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any statute, by-law and regulations that may be passed which have the effect of supplementing or superseding such statutes, by-laws and regulations.
- (g) Time. Time will be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time will be local Vancouver, British Columbia time.

**ARTICLE 2  
USE OF LANDS AND BUILDING**

2.1 The Owner covenants and agrees with the City, in respect of the use of the Lands and the construction and use of the Building, that, during and throughout the Term, unless otherwise indicated below:

- (a) the Lands and the Building will not be used in any way that is inconsistent with the terms of this Agreement;

- (b) the Owner will construct, fit and finish the Building containing 44 Dwelling Units as well as commercial space, in accordance with the conditions of enactment of the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies, all to the satisfaction of the City;
- (c) all Dwelling Units will be used only for the purpose of providing For-Profit Affordable Rental Housing, and if the Building is destroyed or demolished before the end of the Term, then any replacement building(s) built on the Lands (together with any remaining undestroyed or undemolished building) will also contain not less than the same number and type of replacement Dwelling Units as the Building formerly contained, which replacement Dwelling Units will also be used only for the purpose of providing For-Profit Affordable Rental Housing (each such replacement Dwelling Unit hereinafter referred to as a "Replacement Dwelling Unit"), in accordance with the terms of this Agreement and the applicable by-laws of the City;
- (d) the Owner will not rent, licence to use or sublet, nor will the Owner allow to be rented, licenced to use or sublet, any Dwelling Units (or Replacement Dwelling Unit, as applicable) for a term of less than 30 consecutive days;
- (e) the Owner will not suffer, cause or permit, beneficial or registered title to any of the Dwelling Units (or any Replacement Dwelling Unit, as applicable) to be sold or otherwise transferred unless beneficial and registered title to every one of the Dwelling Units (or each Replacement Dwelling Unit, as applicable) is sold or otherwise transferred together and as a block to the same legal and beneficial owner, and subject to Section 6.8;
- (f) the Owner will not suffer, cause or permit, the Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided by strata plan;
- (g) that any sale of any Dwelling Unit (or any Replacement Dwelling Unit, as applicable) in contravention of the covenant in Section 2.1(e), and any subdivision of the Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(f), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (h) the Owner will keep and maintain the Building (or any replacement building(s) on the Lands, as applicable) and all parts thereof in good repair and in a safe, clean, neat and tidy condition;
- (i) if the Building or any part thereof is damaged, the Owner will promptly restore and repair the Building whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred;
- (j) the Owner will insure the Building (or any replacement building(s) on the Lands, as applicable) to the full replacement cost against perils normally insured against in Vancouver, British Columbia by reasonable and prudent owners of similar buildings and lands;

- (k) prior to the issuance of an Occupancy Permit for the Building or any part thereof, the Owner will provide the City with such proof of the insurance required to be taken out pursuant to Section 2.1(j), in form and substance satisfactory to the City, and thereafter and throughout the Term, forthwith upon request by the City, the Owner will provide the City with similar proof of insurance;
- (l) as of the Commencement Date, the rents proposed to be charged by the Owner for the Dwelling units are as set forth in rent role attached hereto as Schedule A;
- (m) prior to the issuance of an Occupancy Permit for the Building or any part thereof, the Owner will provide the City with a finalized rent roll to the satisfaction of the Managing Director of Social Development and Director of Legal Services, that reflects the rental rates that will apply to the first occupants of the Dwelling Units, on either a per unit or a per square foot basis in order to address potential changes in unit mix and/or sizes between the rezoning and development permit stage, and that is consistent with the requirements of Section 3.1A of the Vancouver DCL By-law; and
- (n) in the event of the substantial or complete destruction or demolition of the Building prior to the 60 year anniversary of the Commencement Date, the Owner will promptly take all steps reasonably necessary to enable the Owner to build a replacement building or buildings on the Lands, which building(s) will be subject to the same use restrictions as the Building pursuant to this Agreement for the duration of the Term.

### ARTICLE 3 RECORD KEEPING

- 3.1 Record Keeping. The Owner will keep accurate records pertaining to the use and rental of the Dwelling Units (and any Replacement Dwelling Unit, as applicable) as For-Profit Affordable Rental Housing, such records to be to the satisfaction of the Managing Director of Social Development. At the request of the Managing Director of Social Development, from time to time, the Owner will make these records available for inspection and copying by City staff, subject to applicable restrictions in any tenancy, privacy and other laws which place limitations on such disclosure.

### ARTICLE 4 RELEASE AND INDEMNITY

- 4.1 Release and Indemnity. Subject to Section 4.2, the Owner hereby:
- (a) releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner and covenants and agrees to indemnify and save harmless the City and all City Personnel from and against all Losses which may arise, accrue or be incurred by the City or any City Personnel or which are made by 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:
    - (i) by reason of the City or City Personnel:
      - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the Owner's Works;



- B. withholding any permit pursuant to this Agreement; or
- C. exercising any of its rights under any Section 219 covenant or other right granted to the City pursuant to this Agreement; or
- (ii) that otherwise arise out of, or would not have been incurred but for this Agreement;

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel; and

- (b) covenants and agrees to indemnify and save harmless the City and City Personnel, from and against all Losses which may arise or accrue to 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, by reason of:
  - (i) any negligent act or omission or wilful misconduct of the Owner or any of the Owner's Personnel in connection with the observance and performance of the obligations of the Owner under this Agreement; or
  - (ii) any default in the due observance and performance of the obligations and responsibilities of the Owner under this Agreement.
- (c) The indemnities in this Article 4 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted in this Agreement.

#### 4.2 Conduct of Proceedings.

- (a) In the event that a claim is made against the City which, pursuant to the terms of this Agreement, requires the Owner to indemnify the City or City Personnel, then the City will give notice of such claim to the Owner and, subject to Section 7.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 4.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 4.2(a) in the following circumstances:
  - (i) where the City Manager determines that the proper administration of the municipal government requires that decisions with respect to the claim be made by the City;
  - (ii) where the City Manager determines that the public interest requires that the matter be resolved in an open and public way; or
  - (iii) where, in the opinion of the City Manager, the claim is of a nature where decisions with respect to settling or defending it would create a precedent with respect to other existing or potential claims affecting or involving the City;

provided however that if the City wishes to settle any claim, the City will not do so without the prior consent of the Owner, which consent will not be unreasonably

withheld. In conducting any defence or making any settlement, the City will act in a manner reasonably consistent with the manner in which the City would act in connection with the defence or settlement of claims, suits, demands, actions or proceedings which would not be indemnified against under the provisions of this Section 4.2(b); and

- (c) Regardless of whether the claim is being defended under Section 4.2(a) or Section 4.2(b), the party having conduct of the proceedings will, upon written request of the other party, provide to the other party all information in its possession relating to the proceedings which may be properly disclosed at law. If the party not having conduct of the proceedings so requests in writing in a timely fashion, the party having conduct of the proceedings will join the other party as a third party to the proceedings.
- (b) Survival of Release and Indemnities. The release and indemnities in this Article 4 will remain effective, and survive any modification of, or partial release or release of the covenants created by this Agreement, and any termination of this Agreement, whether by fulfilment of the covenants contained in this Agreement or otherwise.

#### ARTICLE 5 NOTICES

5.1 All notices, demands or requests of any kind which one party may be required or permitted to give to the other in connection with this Agreement, will be in writing and will be given by registered mail or personal delivery, addressed as set forth below. Any such notice, demand or request will be deemed given:

- (a) if made by registered mail, on the earlier of the day receipt is acknowledged by the addressee or the third day after it was mailed, except when there is a postal service disruption during such period, in which case delivery will be deemed to be completed upon actual delivery of the notice, demand or request; and
- (b) if personally delivered, on the date when delivered.

If to the City, addressed to:  
 City of Vancouver  
 453 West 12<sup>th</sup> Avenue  
 Vancouver, British Columbia  
 V5Y 1V4

Attention: Managing Director of Social Development  
 with copy to Director of Legal Services

If to the Owner, addressed to:  
 Vishi Construction Ltd.  
 2228 East 54<sup>th</sup> Avenue  
 Vancouver, BC V5P 1Y7

Attention: President

or to such other address in Canada as either party may specify in writing to the other party in the manner described above, provided that if and when the owner of the Land or any part thereof should change, in the absence of any such specification, then to the address as set out in the State of Title Certificate for that particular parcel of land.

**ARTICLE 6  
MISCELLANEOUS**

- 6.1 Agreement Runs With the Lands. The covenants and agreements set forth herein on the part of the Owner will be covenants the burden of which will run with and will bind the Lands and will attach thereto.
- 6.2 Enurement. This Agreement will enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement will enure to the benefit of and be binding upon the Owner and its successors and assigns.
- 6.3 Enforcement. This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it will be entitled to court costs on a solicitor and own client basis.
- 6.4 Severability. All the obligations and covenants contained in this Agreement are severable, so that if any one or more of the obligations or covenants are held by or declared by a court of competent jurisdiction to be void or unenforceable, the balance of the obligations and covenants will remain and be binding.
- 6.5 Vancouver Charter. Nothing contained or implied herein 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 Roads and the Lands as if this Agreement had not been executed and delivered by the Owner and the City.
- 6.6 Waiver. The Owner acknowledges and agrees that no failure on the part of the City to exercise and no delay in exercising any right under this Agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.
- 6.7 Further Assurances. Each party will execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement.
- 6.8 Sale of Lands or Building. Prior to the sale or transfer of any legal or beneficial interest in the Lands and/or the Building or any part thereof (other than the transfer of an interest by way of mortgage, where the mortgagee has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage), subject always to Section 2.1(e), the Owner will cause the

purchaser/transferee to enter into an assumption agreement with the City, in form and substance satisfactory to the Director of Legal Services, pursuant to which the purchaser/transferee will agree to be bound by all of the obligations, agreements and indemnities of the Owner under this Agreement. The provisions in this Section 6.8 will apply equally to all subsequent purchasers/transferees (other than a mortgagee that has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage).

6.9 Owner's Representations. The Owner represents and warrants to and covenants and agrees with the City that:

- (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all legal and beneficial interests in the title to the Lands with the interests in land created hereby;
- (b) upon execution and delivery of this Agreement and registration thereof, the interests in land created hereby will encumber all legal and beneficial interests in the title to the Lands;
- (c) this Agreement will be fully and completely binding upon the Owner in accordance with its terms and the Owner will perform all of its obligations under this Agreement in accordance with its terms; and
- (d) the foregoing representations, warranties, covenants and agreement will have force and effect notwithstanding any knowledge on the part of the City whether actual or constructive concerning the status of the Owner with regard to the Lands or any other matter whatsoever.

6.10 Agreement to be a First Charge. The Owner agrees to cause, at its sole cost and expense, the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:

- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
- (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of any rezoning or any Development Permit; and
- (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement on the Forms C or D which are a part hereof.

SCHEDULE A			
UNIT #	Type of Unit	Size of Unit	Monthly Rental Rate
201	1 - bedroom	518	1499
202	1 - bedroom	587	1499
203	1 - bedroom	552	1499
204	1 - bedroom	591	1499
205	1 - bedroom	591	1499
206	2 - bedroom	809	1968
207	1 - bedroom	591	1499
208	1 - bedroom	591	1499
209	2 - bedroom	824	1968
301	1 - bedroom	518	1499
302	1 - bedroom	587	1499
303	1 - bedroom	552	1499
304	1 - bedroom	591	1499
305	1 - bedroom	591	1499
306	2 - bedroom	809	1968
307	1 - bedroom	591	1499
308	1 - bedroom	591	1499
309	2 - bedroom	824	1968
401	1 - bedroom	518	1499
402	1 - bedroom	587	1499
403	1 - bedroom	552	1499
404	1 - bedroom	591	1499
405	1 - bedroom	591	1499
406	2 - bedroom	809	1968
407	1 - bedroom	591	1499
408	1 - bedroom	591	1499
409	2 - bedroom	824	1968
501	1 - bedroom	518	1499
502	1 - bedroom	587	1499
503	1 - bedroom	552	1499
504	1 - bedroom	591	1499
505	1 - bedroom	591	1499
506	2 - bedroom	705	1968
507	1 - bedroom	591	1499
508	1 - bedroom	591	1499
509	2 - bedroom	824	1968
601	Studio	421	1110
602	1 - bedroom	523	1499
603	1 - bedroom	523	1499
604	1 - bedroom	523	1499
605	1 - bedroom	446	1499
606	1 - bedroom	523	1499
607	1 - bedroom	523	1499
608	1 - bedroom	465	1499
Housing Agreement & Building Use Covenant			
960 - 968 Kingsway & 955 East 19th Avenue Vancouver			#168290v1

**CONSENT AND PRIORITY INSTRUMENT**

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA1600382 and the Assignment of Rents registered under number CA1600382;
- (b) "Existing Chargeholder" means GREATER VANCOUVER COMMUNITY CREDIT UNION;
- (c) "New Charge" means the Section 219 Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

For \$10.00 and other good and valuable consideration, the receipt and sufficiency of which the Existing Chargeholder acknowledges, the Existing Chargeholder hereby:

- (i) consents to the Owner granting the New Charge to the City; and
- (ii) agrees with the City that the New Charge charges the Land in priority to the Existing Charges in the same manner and to the same effect as if the Owner had granted the New Charge, and it had been registered against title to the Lands, prior to the grant or registration of the Existing Charges or the advance of any money under the Existing Charges.

To witness this consent and priority instrument, the Existing Chargeholder has caused its duly authorized signatories to sign the attached General Instrument - Part 1.