

**EXPLANATION****A By-law to amend the Zoning and Development By-law  
Re: 1715 Cook Street**

Following the Public Hearing on December 12, 2017, Council gave conditional approval to the rezoning of the site at 1715 Cook Street. The Director of Planning has advised that all prior to conditions have been met, and enactment of the attached By-law will implement Council's resolution.

Director of Legal Services  
December 4, 2018

116.

1715 Cook Street

**BY-LAW NO.**

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

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

**Zoning District Plan Amendment**

1. This By-law amends the Zoning District Plan attached as Schedule D to By-law No. 3575, and amends the boundaries and districts shown on it, according to the amendments, substitutions, explanatory legends, notations, and references shown on the plan marginally numbered Z-730 (e) attached as Schedule A to this By-law and incorporates Schedule A into Schedule D to By-law No. 3575.

**Uses**

2.1 The description of the area shown within the heavy black outline on Schedule A is CD-1 (720).

2.2 Subject to Council approval of the form of development, to all conditions, guidelines and policies adopted by Council, and to the conditions set out in the By-law or in a development permit, the only uses permitted within CD-1 (720), and the only uses for which the Director of Planning or Development Permit Board will issue development permits are:

- (a) Multiple Dwelling; and
- (b) Accessory Uses customarily ancillary to the uses listed in this section 2.2.

**Conditions of use**

- 3. The design and layout of at least 25% of the dwelling units must:
  - (a) be suitable for family housing;
  - (b) include two or more bedrooms; and
  - (c) comply with Council's "High Density Housing for Families with Children Guidelines".

**Floor area and density**

- 4.1 The total floor area for all uses combined must not exceed 5,691 m<sup>2</sup>.
- 4.2 Floor space ratio must not exceed 5.03.

4.3 Computation of floor area must include:

- (a) all floors having a minimum ceiling height of 1.2 m, including earthen floor, both above and below ground, measured to the extreme outer limits of the building;
- (b) stairways, fire escapes, elevator shafts, and other features which the Director of Planning considers similar, measured by their gross cross-sectional areas, and included in the measurements for each floor at which they are located; and
- (c) in the case of dwelling uses, if the distance from a floor to the floor above, or in the absence of a floor above, to the top of the roof rafters or deck exceeds 4.3 m, an additional amount equal to the area of the floor area below the excess height, except for additional amounts that represent undeveloped floor areas beneath roof elements, which the Director of Planning considers to be for decorative purposes, and to which there is no means of access other than a hatch, residential lobbies, and mechanical penthouses.

4.4 Computation of floor area must exclude:

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

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

- (a) enclosed residential balconies, if the Director of Planning or Development Permit Board first considers all applicable policies and guidelines adopted by Council, and approves the design of any balcony enclosure, except that:
  - (i) the total area of all open and enclosed balcony or sundeck exclusions must not exceed 8% of the total residential floor area provided, and
  - (ii) enclosure of the excluded balcony floor area must not exceed 50%;
- (b) windows recessed into the building face to a depth of no more than 160 mm, except that the Director of Planning or Development Permit Board may allow a greater depth in cases where it improves building character;
- (c) unenclosed outdoor areas at grade level underneath building overhangs, if:
  - (i) the Director of Planning or Development Permit Board first considers all applicable policies and guidelines adopted by Council and approves the design of any overhangs, and
  - (ii) the area of all overhang exclusions does not exceed 1% of the residential floor area being provided; and
- (d) tool sheds, trellises and other garden structures, which support the use of intensive green roofs and urban agriculture, and, despite section 4.4(b), those portions of stairways and elevator enclosures which are at the roof level providing access to the garden areas.

4.6 The use of floor area excluded under section 4.4 or 4.5 must not include any use other than that which justified the exclusion.

### **Building height**

5. The building height, measured from base surface to the top of the parapet must not exceed 31.6 m.

### **Horizontal angle of daylight**

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

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

6.3 Measurement of the plane or planes referred to in section 6.2 must be horizontally from the centre of the bottom of each window.

6.4 If:

- (a) the Director of Planning or Development Permit Board, first considers all the applicable policies and guidelines adopted by Council; and

- (b) the minimum distance of unobstructed view is not less than 3.7 m;

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

6.5 An obstruction referred to in section 6.2 means:

- (a) any part of the same building including permitted projections; or
- (b) the largest building permitted under the zoning on any site adjoining CD-1 (720).

6.6 A habitable room referred to in section 6.1 does not include:

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

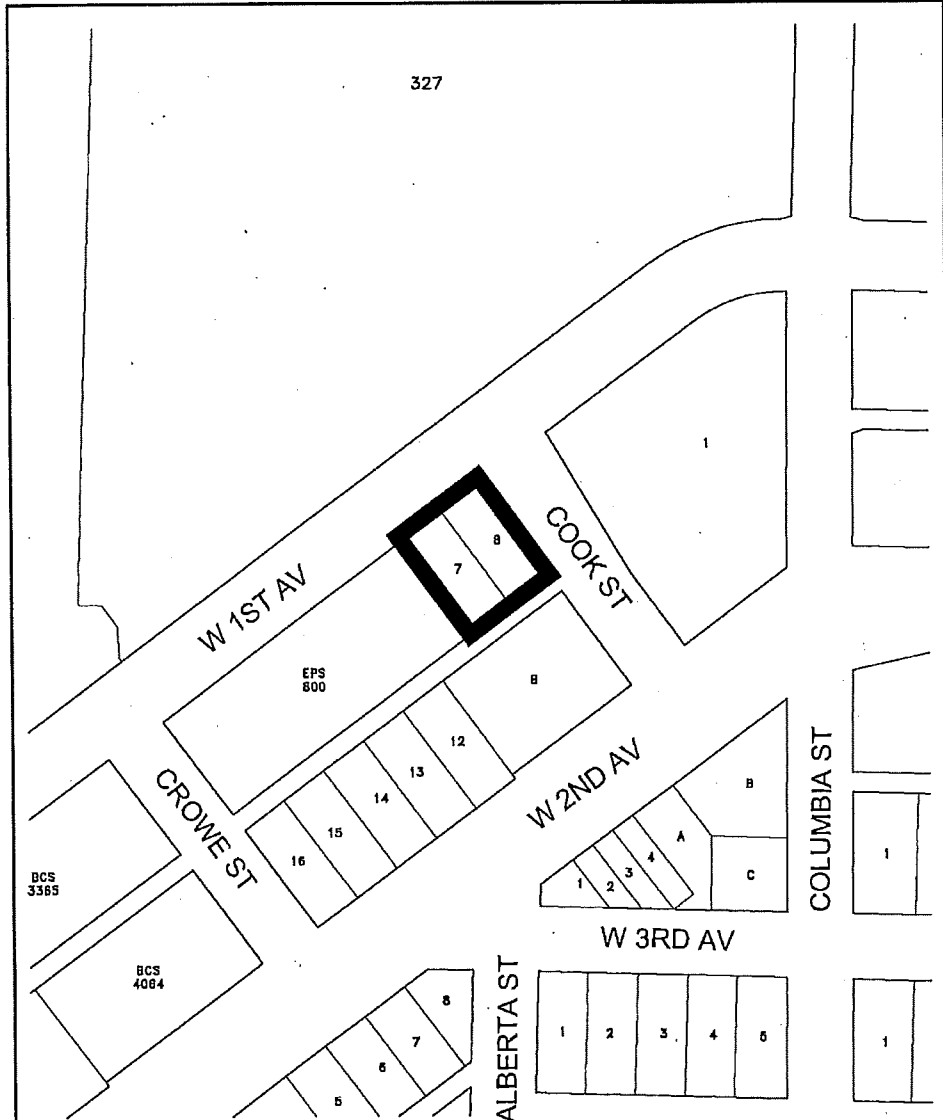
### **Acoustics**

7. A development permit application for dwelling uses must include an acoustical report prepared by a licensed professional acoustical engineer demonstrating that the noise levels in those portions of the dwelling units listed below will not exceed the noise levels expressed in decibels set opposite such portions of the dwelling units. For the purposes of this section the noise level is the A-weighted 24-hour equivalent (Leq24) sound level and will be defined simply as noise level in decibels.

<b>Portions of dwelling units</b>	<b>Noise levels (Decibels)</b>
Bedrooms	35
Living, dining, recreation rooms	40
Kitchen, bathrooms, hallways	45



Schedule A



The properties outlined in black (  ) are rezoned:  
 From **M-2** to **CD-1**

Z-730 (e)

<b>RZ- 1715 Cook Street</b>	map: 1 of 1	
<b>City of Vancouver</b>	scale: NTS	
<b>City of Vancouver</b>		date: 2017-11-24

**EXPLANATION****Authorization to enter into a Housing Agreement  
Re: 616 East Cordova Street**

On June 12, 2018, the Development Permit Board approved in principle a development on the above noted property, subject to, among other things, a Housing Agreement to be entered into by the City and the land owner, on terms satisfactory to the Director of Legal Services and the General Manager of Community Services, prior to the issuance of a Development Permit.

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

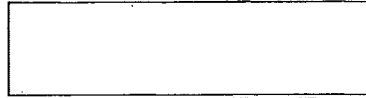
Director of Legal Services  
December 4, 2018





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)  
 Natalie Pawson, Miller Thomson LLP  
 400 - 725 Granville Street  
 Vancouver BC V7Y 1G5  
 604-628-2884  
 Client No. 010437 File No.: 0184009.0005  
 616 Cordova / Doc ID: 35664142  
 Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
 [PID] [LEGAL DESCRIPTION]  
 023-179-732 PARCEL A BLOCK 59 DISTRICT LOT 196 GROUP 1 NEW WESTMINSTER  
 DISTRICT PLAN LMP24681  
 STC? YES

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION  
 Covenant Entire Instrument

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):  
 UNION GOSPEL HOUSING SOCIETY (INC. NO. S0015875)

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)  
  
 MIKE WALKER  
 BARRISTER & SOLICITOR  
 400 - 725 GRANVILLE STREET  
 VANCOUVER, B.C. V7Y 1G5  
 (604) 687-2242

Execution Date		
Y	M	D
2018	11	28

Transferor(s) Signature(s)  
 UNION GOSPEL HOUSING SOCIETY, by its authorized signatory(ies):  
  
 Print Name: BILL MOLLARD  
 Print 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.



TERMS OF INSTRUMENT - PART 2  
HOUSING AGREEMENT AND BUILDING USE COVENANT  
(Social Housing)

616 EAST CORDOVA STREET

WHEREAS:

A. It is understood and agreed that this instrument and Agreement shall be read as follows:

- (i) the Transferor, UNION GOSPEL HOUSING SOCIETY, 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;

C. The Owner made an application for a development permit pursuant to Development Application No. DP-2018-00255 (the "Development Application") to develop the Lands to construct a seven-storey mixed use building containing a Social Service Centre, Child Care Facility and 63 units of Social Housing, all over one level of underground parking having vehicular access from the lane, which application was approved by the Development Permit Board in principle, subject to, *inter alia*, fulfilment of the following conditions prior to the issuance of the development permit:

"1.7. *Make arrangements to the satisfaction of the Director of Legal Services and the General Manager of Arts, Culture and Community Services to enter into a Housing Agreement for 60 years or the life of the building, whichever is greater, in order to comply with the provisions of Social Housing as defined in the Zoning and Development By-law for this area. The Housing Agreement will secure the following:*

- (i) *not less than one-third of the Social Housing Units will be occupied only by persons eligible for either Income Assistance or a combination of Old Age Security pension and the Guaranteed Income Supplement and rented at rental rates no higher than the shelter component of Income Assistance;*
- (ii) *the target rents and affordability for the remaining Social Housing Units will be for:*
  - a. *one-third to be occupied only by households with incomes below the then current applicable Housing Income Limits, as set out in the current "Housing Income Limits" table published by the British Columbia Housing Management Commission, or equivalent publication, and each rented at a rate no higher than 30% of the*

aggregate household income of the members of the household occupying such Social Housing Unit; and

- b. the remaining one-third to be rented at Affordable Market Rents, meaning the average market rents posted by Canada Mortgage and Housing Corporation applicable to the location of the Lands;
- (iii) micro Dwelling Units will each be rented at a rate less than the average market rents for studio apartments in the East Hastings zone (as may be renamed from time to time) as stated annually in the Canada Mortgage and Housing Corporation's Annual Rental Market Survey or an equivalent publication (as may be approved by the General Manager of Arts, Culture and Community Services)."

(the "Social Housing Condition")

- D. The Owner and the City are now entering into this Agreement to satisfy the Social Housing Condition.

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, pursuant to Section 565.2 of the *Vancouver Charter* and to Section 219 of the *Land Title Act*, agree as follows in respect of the use of the Lands and the New Building:

#### ARTICLE 1 DEFINITIONS AND INTERPRETATIONS

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

- (a) "Affordable Market Rents" means the average market rents posted by Canada Mortgage and Housing Corporation applicable to the location of the Lands;
- (b) "Agreement" means this housing agreement and building use covenant, including the foregoing Recitals;
- (c) "City" and "City of Vancouver" are defined in Recital A(ii);
- (d) "City Manager" means the chief administrator from time to time of the City and his/her successors in function and their respective nominees;
- (e) "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;
- (f) "Commencement Date" means the date as of which this Agreement has been executed by all parties to it;
- (g) "Development" means the development on the Lands described in Recital C and approved by the Development Permit;

- (h) "Development Application" means the development application described in Recital C;
- (i) "Development Permit" means any development permit issued by the City authorizing the development of any portion of the Lands contemplated by the Zoning and Development By-law;
- (j) "Director of Legal Services" means the chief administrator from time to time of the Legal Services Department of the City and her/his successors in function and their respective nominees;
- (k) "Dwelling Unit" means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (l) "General Manager of Arts, Culture and Community Services" means the chief administrator from time to time of the City's Arts, Culture and Community Services Department and his/her successors in function and their respective nominees;
- (m) "Guaranteed Income Supplement" means an additional benefit that may be added to the Old Age Security pension received by a person aged 65 and older if he/she has a low income and meets other specified criteria, which is administered and paid by the Government of Canada;
- (n) "Housing Income Limit" or "HIL" the income required to pay the average market rent for an appropriately sized unit in the private market, in Vancouver, determined annually by the British Columbia Housing Management Commission or its successors in function, which is derived from the Canada Mortgage and Housing Corporation's Annual Rental Market Survey or an equivalent publication (as may be approved by the General Manager of Arts, Culture and Community Services);
- (o) "Income Assistance" means financial assistance for a person in financial need who has no other resources and meets other specified criteria, which is administered and paid by the Government of British Columbia;
- (p) "Land Title Act" means the Land Title Act, R.S.B.C. 1996, c. 250;
- (q) "Lands" means the lands described in Item 2 in the Form C attached hereto; provided, however, that if the Lands are at any time subdivided by air space parcel subdivision, and this Agreement is thereafter discharged from one or more of the resulting legal parcels, then "Lands" will thereafter mean only the part of the Lands within the legal parcel(s) against which it remains registered;
- (r) "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;

- (s) "Micro Dwelling Unit" means a Social Housing Unit which measures no less than 23.2 m<sup>2</sup> and no more than 29.7 m<sup>2</sup> and is intended for single occupancy;
- (t) "New Building" means each 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;
- (u) "Occupancy Permit" means a permit issued by the City authorizing the use and occupation of any New Building, development or partial development on the Lands;
- (v) "Old Age Security" means a monthly pension payment available to certain persons aged 65 and older who meet specified legal status, residence and other requirements, which is administered and paid by the Government of Canada;
- (w) "Owner" means the Transferor, UNION GOSPEL HOUSING SOCIETY, and any successors in title to the Lands or a portion of the Lands;
- (x) "Rental Housing" means a Dwelling Unit which is not occupied by the registered or beneficial owner of the same, but which is made available by such owner to the general public (subject to Article 2), at arms length, for use as rental accommodation on a month-to-month or longer basis in accordance with this Agreement, reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto;
- (y) "Replacement Social Housing Unit" has the meaning ascribed to that term in section 2.1(b) and "Replacement Social Housing Units" means all of such units;
- (z) "*Residential Tenancy Act*" means the Residential Tenancy Act S.B.C. 2002, c. 78;
- (aa) "Social Housing" has the meaning ascribed to that term in the Vancouver Development Cost Levy By-law No. 9755, namely Rental Housing:
  - (i) in which at least one third of the dwelling units are occupied by persons eligible for either Income Assistance or a combination of basic Old Age Security pension and Guaranteed Income Supplement and are rented at rates no higher than the shelter component of Income Assistance;
  - (ii) which is owned by a non-profit corporation, by a non-profit co-operative association, or by or on behalf of the City, the Province of British Columbia, or Canada; and
  - (iii) in respect of which the registered owner or ground lessee of the freehold or leasehold title to the land on which the housing is situate has granted to the city a section 219 covenant, housing agreement, or other security for the housing commitments required by the city

registered against the freehold or leasehold title, with such priority of registration as the city may require;

- (bb) "Social Housing Condition" has the meaning ascribed to that term in Recital C;
- (cc) "Social Housing Units" has the meaning ascribed to that term in Section 2.1(b), and "Social Housing Unit" means any one of such Social Housing Units;
- (dd) "Term" means the term of this Agreement, which will commence on the Commencement Date and will end on the later of:
  - (i) the date as of which the New Building is demolished or substantially destroyed; or
  - (ii) 60 years from the date when the final Occupancy Permit is issued for the New Building; and
- (ee) "*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 includes and is a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any statute and regulations that may be passed which have the effect of supplementing or superseding such statutes and regulations.
- (g) Time. Time shall 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 shall be local Vancouver, British Columbia time.

ARTICLE 2  
RESTRICTIONS ON USE AND SUBDIVISION

2.1 The Owner covenants and agrees that:

- (a) throughout the Term, the Lands and the New Building will not be used in any way that is inconsistent with the terms of this Agreement;
- (b) it will design, construct, equip and finish within the New Building not less than 63 Dwelling Units for use only as Social Housing (the "Social Housing Units" and for clarity includes, *inter alia*, the Micro Dwelling Units), in accordance with the Development Permit, any building permit issued pursuant thereto and the requirements of this Agreement, and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit, then it will promptly take all steps reasonably necessary to enable it to repair the New Building or build a replacement building or buildings on the Lands, which repaired New Building or replacement building(s) will contain not less than the same number and type of replacement Social Housing Units as the New Building formerly contained (each such replacement Social Housing Unit hereinafter referred to as a "Replacement Social Housing Unit") and will be subject, for the duration of the Term, to the same use restrictions as the Social Housing Units and the New Building are pursuant to this Agreement;
- (c) throughout the Term, the New Building will be used only in a manner that ensures its continued compliance with the definition of Social Housing;
- (d) throughout the Term:
  - (i) not less than 33% of the Social Housing Units (or Replacement Social Housing Units, as applicable), will be occupied only by persons eligible for either Income Assistance or a combination of Old Age Security pension and the Guaranteed Income Supplement and rented at rental rates no higher than the shelter component of Income Assistance; and
  - (ii) the target rents and affordability for the remaining Social Housing Units (or Replacement Social Housing Units, as applicable) will be for:

- A. 1/3 of the Social Housing Units (or Replacement Social Housing Units, as applicable) to be occupied only by households with incomes below the then current applicable HIL and each rented at a rate no higher than 30% of the aggregate household income of the members of the household occupying such Social Housing Unit (or Replacement Social Housing Unit, as applicable), provided that if any such Social Housing Units (or Replacement Social Housing Units, as applicable) are Micro Dwelling Units, then such Micro Dwelling Units shall be rented at a rate no higher than the lesser of:
    - I. the average market rents for studio apartments in the East Hastings zone (as may be renamed from time to time) as stated annually; and
    - II. 30% of the aggregate household income of the members of the household occupying such Micro Dwelling Unit;
  - B. the remaining Social Housing Units (or Replacement Social Housing Units, as applicable) to be rented at Affordable Market Rents, provided that if any such Social Housing Units (or Replacement Social Housing Units, as applicable) are Micro Dwelling Units, then such Micro Dwelling Units shall be rented at a rate no higher than the lesser of:
    - I. the average market rents for studio apartments in the East Hastings zone (as may be renamed from time to time) as stated annually; and
    - II. Affordable Market Rents;
- (e) throughout the Term, the Social Housing Units (or Replacement Social Housing Units, as applicable) will only be used for the purpose of providing Social Housing;
  - (f) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any Social Housing Unit (or Replacement Social Housing Unit, as applicable) to be sold or otherwise transferred unless:
    - (i) every Social Housing Unit (or Replacement Social Housing Unit, as applicable) is sold or otherwise transferred together and as a block to the same legal and beneficial owner; and
    - (ii) the sale or transfer is to the City or it otherwise obtains the express written consent of the City;
  - (g) throughout the Term, it will not suffer, cause or permit the Lands, or any part thereof, to be subdivided by strata plan or air space plan without the prior written consent of the City, which consent may be arbitrarily withheld;

- (h) throughout the Term, any sale or other transfer of title to a Social Housing Unit (or Replacement Social Housing Unit, as applicable) in contravention of the covenant in Section 2.1(f), and any subdivision of the Lands in contravention of Section 2.1(g), 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;
- (i) throughout the Term, it will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any Social Housing Unit (or Replacement Social Housing Unit, as applicable) for a term of less than one month at a time;
- (j) throughout the Term, it will insure, or cause to be insured, the Lands and the New Building and all parts thereof to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands; and
- (k) throughout the Term, it will keep and maintain the Lands and the New Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition. If the Lands or the New Building or any part thereof is damaged, the Owner will promptly restore and repair the same whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred.

ARTICLE 3  
OCCUPANCY RESTRICTION ON THE LANDS

3.1 No Occupancy. The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:

- (a) the Owner will not apply for any Occupancy Permit in respect of, and will not suffer or permit the occupation of, the New Building, and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit for the Building, until such time as the Owner has delivered, to the General Manager of Arts, Culture and Community Services, in form and substance satisfactory to the General Manager of Arts, Culture and Community Services:
  - (i) proof of the insurance, consistent with the requirements of Section 2.1(j), is in force and effect, in form and substance satisfactory to the City; and
  - (ii) a final rent roll confirming the rents to be charged to the first occupants of the Social Housing Units following issuance of the Occupancy Permit on a per unit basis, which rents will comply with those applicable to the Social Housing Units; and

- (b) the City will be under no obligation to issue any Occupancy Permit, notwithstanding completion of construction of the New Building until such time as the Owner has complied with Section 3.1(a)(i); and

without limiting the general scope of ARTICLE 6, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of an Occupancy Permit until there is compliance with the provisions of this ARTICLE 3.

#### ARTICLE 4 RECORD KEEPING

- 4.1 The Owner will keep accurate records pertaining to the use and occupancy of the Social Housing Units (or Replacement Social Housing Units, as applicable). Such records will be to the satisfaction of the City. At the request of the City, from time to time, the Owner will make such records available for inspection and copying by the City. The City will comply with the Owner's statutory obligations with respect to privacy of such information.

#### ARTICLE 5 ENFORCEMENT

- 5.1 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 shall be entitled to court costs on a solicitor and own client basis.

#### ARTICLE 6 RELEASE AND INDEMNITY

- 6.1 Release and Indemnity. Subject to Section 6.2, 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. withholding any permit pursuant to this Agreement; or
- B. 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.

The indemnities in this ARTICLE 6 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted in this Agreement.

6.2 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 6.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 6.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 6.2(b) 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 6.2(b); and

- (c) Regardless of whether the claim is being defended under Section 6.2(a) or Section 6.2(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.

- 6.3 Survival of Release and Indemnities. The release and indemnities in this ARTICLE 6 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 7 NOTICES

- 7.1 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, shall be in writing and shall be given by registered mail or personal delivery, addressed as follows:

- (a) If to the City:

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

Attention: City Clerk, with concurrent copies to the General Manager of Arts, Culture and Community Services and the Director of Legal Services

- (b) If to the Owner:

Union Gospel Housing Society  
601 East Hastings Street  
Vancouver, British Columbia  
V6A 1J7

Attention: Manager of Housing

and any such notice, demand or request will be deemed given:

- (c) 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
- (d) if personally delivered, on the date when delivered,

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 8  
MISCELLANEOUS

- 8.1 Agreement Runs With the Lands. The covenants and agreements set forth herein on the part of the Owner shall be covenants the burden of which shall run with and shall bind the Lands and shall attach thereto and run with each and every part into which the same may be subdivided or consolidated. Upon the sale or transfer of the legal or beneficial interest in the Lands, the parties agree that the covenants and agreements herein contained shall only be binding upon the transferring party in respect of a breach or acts or omissions occurring during its ownership of the Lands, and the transferring party shall otherwise be released from all covenants and agreements herein contained following such sale or transfer of the legal or beneficial interest in the Lands.
- 8.2 Agreement to be a First Charge. The Owner agrees to cause 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 the 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.
- 8.3 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.
- 8.4 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.
- 8.5 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*, and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised

in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and the City.

- 8.6 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.
- 8.7 Further Assurances. The Owner 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 including all acts necessary to ensure that this Agreement is noted on title to the Lands as a housing agreement pursuant to Section 565.2 of the *Vancouver Charter*.
- 8.8 Perfection of Intention. The Owner shall, after execution hereof, do or cause to be done at its own cost and expense all things and acts necessary to ensure that this Agreement is noted on title to the Lands as a housing agreement pursuant to Section 565.2 of the *Vancouver Charter* and also registered as a charge against title to the Lands with priority over all other encumbrances except those in favour of the City.
- 8.9 Owner's Representations and Warranties. 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.
- 8.10 Enurement. This Agreement shall enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement shall enure to the benefit of and be binding upon the Owner and its successors and assigns.



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

END OF DOCUMENT