

EXPLANATION**A By-law to amend By-law No. 10195
Re: East Fraser Lands Area 2 South**

Following the public hearing on September 18, 2018, Council approved amendments to the East Fraser Lands Area 2 South By-law No. 10195 regarding housekeeping amendments. The Director of Planning and the Director of Legal Services have 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
July 9, 2019



BY-LAW NO.

**A By-law to amend CD-1(499) By-Law No. 10195
East Fraser Lands Area 2 South Regarding Housekeeping Amendments**

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

1. This by-law amends the indicated provisions of CD-1 (499) By-law No. 10195 for East Fraser Lands Area 2 South.
2. In section 3.4, Council strikes out subsection 3.4(b)(v) and substitutes the following:
 - "(v) any development permit for an interim use has a time limit of five years, except that the Director of Planning or Development Permit Board may renew development permits for interim uses for subsequent terms of up to five years."
3. In section 5.1, Council strikes out "106 743 m²" and substitutes "115 787 m²".
4. In section 6.1, Council strikes out the table and substitutes the following:

"Development Parcel	Number of storeys	Maximum building heights in metres
7A	6	22.5
7B	6	22.5
8A	6	22.5
8B	10	34.5
9A	6	22.5
9B	7	25.5
10	7	25.5
11	12	37.5
23	4	20.5
24	11	37.5
25	11	37.5
28	15	46.5"

5. Council strikes out section 7 and substitutes the following:

"7 Parking, loading, and bicycle spaces

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

- (a) with respect to loading spaces, Class A, for all residential uses, at least 0.01 loading space, Class A for each dwelling unit, and any number equal to or greater than 0.5 is to count as one loading space, Class A; and

(b) with respect to loading spaces, Class B, for all residential uses, at least 0.005 loading spaces, Class B for each dwelling unit, and any number equal to or greater than 0.5 is to count as one loading space, Class B."

6. 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.

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

ENACTED by Council this _____ day of _____, 2019

Mayor

City Clerk

EXPLANATION

**A By-law to amend By-law No. 10943
Re: East Fraser Lands Waterfront Precinct**

Following the public hearing on September 18, 2018, Council approved amendments to the East Fraser Lands Waterfront Precinct By-law No. 10943 regarding housekeeping amendments. The Director of Planning and the Director of Legal Services have 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
July 9, 2019


BY-LAW NO.

**A By-law to amend CD-1 (567) By-Law No. 10943
East Fraser Lands Waterfront Precinct Regarding Housekeeping Amendments**

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

1. This by-law amends the indicated provisions of CD-1 (567) By-law No. 10943 for East Fraser Lands Waterfront Precinct.
2. In section 1.2, Council strikes out the word "Z-619(d)(iii)" and substitutes "Z-745(a)":
3. In section 2, Council:
 - (a) strikes out the word "Z-619(d)(iii)" wherever it appears and substitutes "Z-745(a)";
 - (b) strikes out the word "and" at the end of the definition for "sub-area 2";
 - (c) strikes out the "." at the end of the definition for "sub-area 3" and substitutes "; and"; and
 - (d) adds the following definition after the definition for "sub-area 3":

"sub-area 4" means that area of CD-1 (567) illustrated on the plan marginally numbered Z-745(a) attached as Schedule A to this By-law."
4. In section 3, Council:
 - (a) in section 3.2, strikes out the words "Uses permissible in CD-1 (567)" and substitutes "Uses permissible in sub-area 1, sub-area 2, and sub-area 3 of CD-1 (567)";
 - (b) in section 3.2, strikes out subsection (d)(v) and substitutes the following:

"(v) any development permit for an interim use has a time limit of five years, except that the Director of Planning or Development Permit Board may renew development permits for interim uses for subsequent terms of up to five years."; and
 - (c) adds a new section 3.6 as follows:

"3.6 Uses permissible in sub-area 4 include only:

 - (a) Cultural and Recreational Uses, limited to Park or Playground; and
 - (b) Accessory Uses customarily ancillary to the uses listed in this section 3.6."

5. In subsection 4.5(b), Council strikes out the words "easterly building" and substitutes "easterly and northerly buildings".

6. In section 5, Council:

(a) in section 5.1, strikes out "112 961 m²" and substitutes "103 917 m²";

(b) strikes out section 5.2 and substitutes the following:

"5.2 The floor area for all dwelling uses, combined, must not exceed 94 556 m².";

(c) in section 5.3, strikes out "6 177 m²" and substitutes "6 724 m²"; and

(d) in section 5.4, strikes out "3 184 m²" and substitutes "1 443 m²".

7. In section 6.1, Council strikes out the table and substitutes the following:

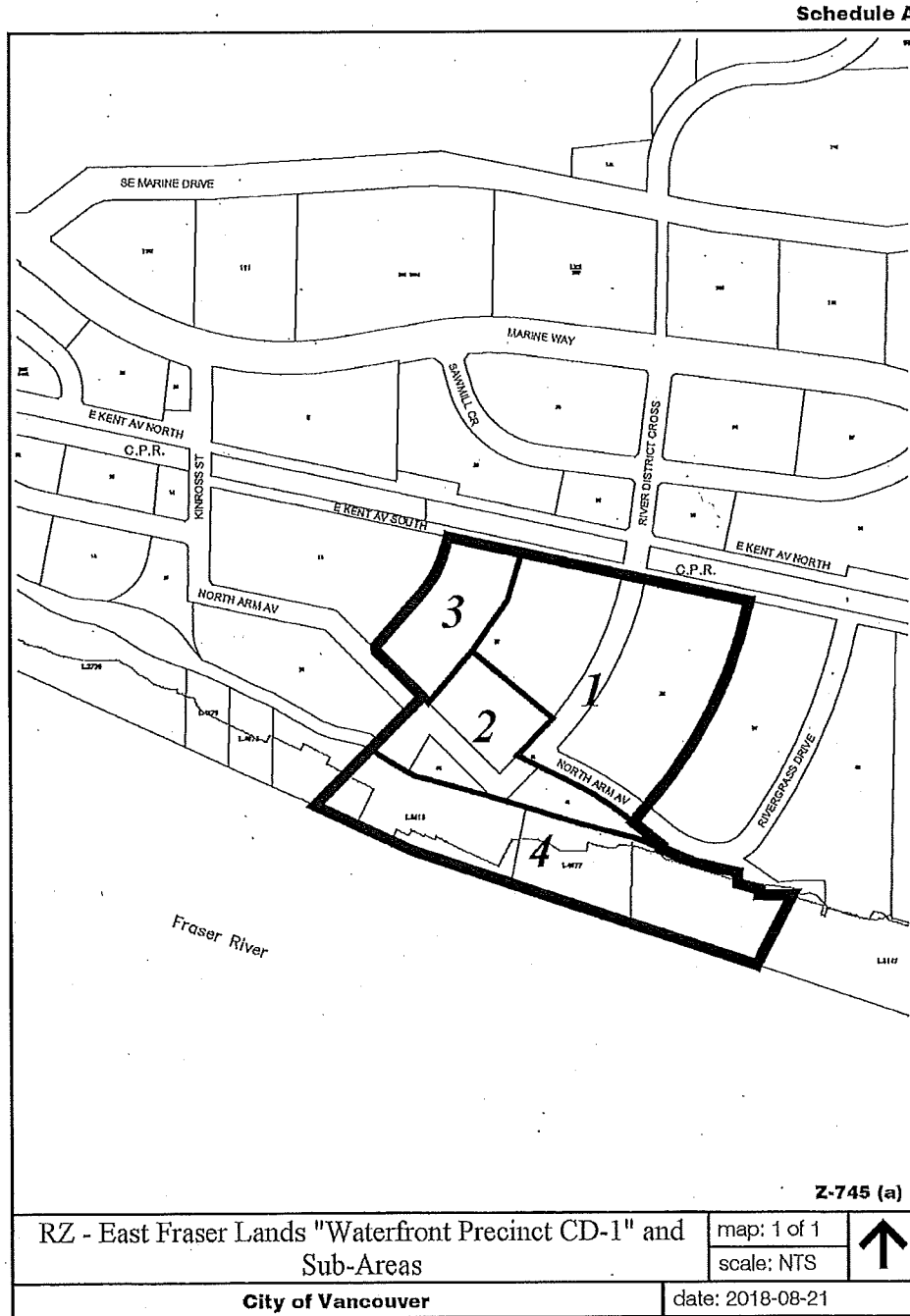
"Development Parcel	Number of storeys	Maximum building heights in metres
26	22	67.5
27	6	22.0
29 and 30	24	75.0
31	3	10.5
32.1 and 32.2	1	6.6
33 and 34	14	46.0
35 and 36	9	31.0".

8. Council strikes out section 7 and substitutes the following:

"7 Parking, loading, and bicycle spaces

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

9. Council strikes out map Z-619(d)(iii), the sub-area map, and substitutes the following map:



EXPLANATION

**Authorization to enter into a Housing Agreement
Re: 177 West Pender Street**

After the public hearing on December 6, 2017, Council approved in principle the land owner's application to rezone the above noted property from DD (Downtown) District to CD-1 (Comprehensive Development) District, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Community Services and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant, and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services
July 9, 2019



177 West Pender Street

BY-LAW NO. _____

**A By-law to enact a Housing Agreement
for 177 West Pender Street**

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:

030-401-488

Lot E Block 28 District Lot 541 Group 1 New Westminster
District Plan EPP76989

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 _____, 2019

Mayor

City Clerk

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)
Kim Gjoricich, Agent
City of Vancouver
453 West 12th Avenue
Vancouver BC V5Y 1V4

LTO Client number: 10647
Phone number: 604.873.7605
Matter number: LS-17-04199
177 West Pender Street

Deduct LTSA Fees? Yes

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

030-401-488 LOT E BLOCK 28 DISTRICT LOT 541 GROUP 1 NEW WESTMINSTER
DISTRICT PLAN EPP76989

STC? YES

3. NATURE OF INTEREST
Covenant

CHARGE NO.

ADDITIONAL INFORMATION
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):

CITY OF VANCOUVER

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

CITY OF VANCOUVER

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)

BRAD WOODS
453 WEST 12TH AVENUE
VANCOUVER BC V5Y 1V4
LAWYER

Execution Date

Y	M	D
19	06	27

Transferor(s) Signature(s)

CITY OF VANCOUVER, by its
authorized signatory:

Print Name: Heidi Granger

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

Transferor / Borrower / Party Signature(s)

CITY OF VANCOUVER, by its
authorized signatory:

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)

177 WEST PENDER STREET

WHEREAS:

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

- (i) the Transferor, CITY OF VANCOUVER, 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 to rezone the Lands from DD (Downtown) District to CD-1 (Comprehensive Development) District (the "Rezoning") to permit the development of an 10-storey residential building containing 90 social housing units and after a public hearing to consider the rezoning application, the rezoning application was approved by City Council in principle, subject to, *inter alia*, fulfilment of the following condition prior to enactment of the rezoning by-law (the "Rezoning By-Law"):

"7. *Make arrangements to the satisfaction of the Director of Legal Services and the General Manager of Community Services to enter into a Housing Agreement for 60 years or the life of the building, whichever is greater, which will contain the following terms and conditions:*

- (i) *A no separate sales covenant;*
- (ii) *A no stratification covenant;*
- (iii) *A provision that none of such units will be rented for less than one month at a time;*
- (iv) *A requirement that a minimum of 30 units (33%) be rented for no more than the shelter component of Income Assistance;*
- (v) *A requirement that all units comply with the definition of "social housing" in the applicable City development cost levy by-law;*
- (vi) *such other terms and conditions as the General Manager of Community Services and the Director of Legal Services may in their sole discretion require.*"
(the "Social Housing Condition"); and

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 Permit" means any development permit issued by the City authorizing the development of any portion of the Lands contemplated by the Rezoning By-law;
- (i) "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;
- (j) "Dwelling Unit" means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (k) "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;
- (l) "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;
 - (m) "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);
 - (n) "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;
 - (o) "*Land Title Act*" means the Land Title Act, R.S.B.C. 1996, c. 250;
 - (p) "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;
 - (q) "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;
 - (r) "Micro Dwelling Unit" means a Social Housing Unit which measures no less than 23.2 m² and no more than 29.7 m² and is intended for single occupancy;
 - (s) "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;
 - (t) "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;
 - (u) "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;

- (v) "Owner" means the Transferor, CITY OF VANCOUVER, and any successors in title to the Lands or a portion of the Lands;
- (w) "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;
- (x) "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;
- (y) "*Residential Tenancy Act*" means the Residential Tenancy Act S.B.C. 2002, c. 78;
- (z) "Rezoning" means the rezoning of the Lands as described in Recital C;
- (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 all 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 one-third (1/3) 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; and
 - (ii) the target rents and affordability for the remaining Social Housing Units will be for:
 - A. not less than one-third (1/3) of the Social Housing Units to be occupied only by households with incomes below the then current applicable HIL and each rented at a monthly rate no higher than the amount equal to 30% of the aggregate household annual income of the members of the household occupying such Social Housing Unit (for the immediately previous 12 months) divided by 12 months provided that if any such Social Housing Units are Micro Dwelling Units, then such Micro Dwelling Units shall be rented at a monthly rate no higher than the lesser of:

- I. the average market monthly rent for studio apartments in the East Hastings zone (as may be renamed from time to time) as stated annually; and
 - II. 1/40th of the then current Housing Income Limit for the applicable type of Social Housing Unit; and
- B. the remaining Social Housing will be Affordable Market Rents provided that they shall not exceed ninety percent (90%) of:
- I. The appraised market rent for a comparable unit in the East Hastings zone (where a "comparable unit" means a unit of the same type, similar sized and in a building with a similar age and quality of construction); or
 - II. In the absence of comparable units in the East Hastings zone, CMHC's Rental Survey for Vancouver by year of construction, 2005+ category, or an equivalent publication (as may be approved by the General Manager of Arts, Culture and Community Services);

and provided further that if any such Social Housing Units are Micro Dwelling Units, then such Micro Dwelling Units shall be rented at a rate no higher 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);

- (e) throughout the Term, the Social Housing Units 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 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 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 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 New 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 either a per unit or a per square foot basis, and the unit type mix and size, which rents, unit type mix and size 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); 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. 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 fulfillment 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:

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

Attention: Director of Real Estate

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

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 2153-2199 Kingsway**

The land owner applied to the City to rezone the Lands from C-2 (Commercial) District to CD-1 (Comprehensive Development) District to permit the development of a six-storey mixed-use building containing commercial retail units at grade and 84 secured market residential rental units. After the public hearing on May 16, 2017 the rezoning application was approved by City Council in principle, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Arts, Culture and Community Services and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant land owner, and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services
July 3, 2019



2153-2199 Kingsway

BY-LAW NO. _____

**A By-law to enact a Housing Agreement
for 2153-2199 Kingsway**

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:

PID: 030-358-701 Lot 1 Blocks 2 and A District Lot 393 New Westminster
District Plan EPP76510

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.

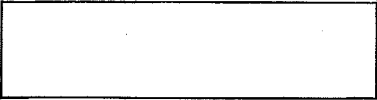
ENACTED by Council this _____ day of _____, 2019

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)

PRYKE LAMBERT LEATHLEY RUSSELL LLP
Barristers and Solicitors
Suite 500 North Tower 5811 Cooney Road,
Richmond BC V6X 3M1

Telephone: 604-231-5113
File No. 101152

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]
030-358-701 LOT 1 BLOCKS 2 AND A DISTRICT LOT 393 NEW WESTMINSTER DISTRICT PLAN EPP76510

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):

SEE SCHEDULE

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

CITY OF VANCOUVER

453 12TH AVENUE WEST
VANCOUVER

BRITISH COLUMBIA
CANADA

V5Y 1V4

7. ADDITIONAL OR MODIFIED TERMS:

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)

Brian R. Purcell
Barrister and Solicitor
500 - North Tower, 5811 Cooney Road
Richmond, BC V6X 3M1
Telephone: 604-276-2765

Execution Date

Y	M	D
19	06	27

Transferor(s) Signature(s)

HUA LONG INTERNATIONAL
TECHNICAL INVESTMENT LTD.,
by its authorized signatory:

Morris Chen

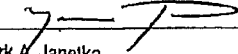
OFFICER CERTIFICATION:

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)


Mark A. Janelka
Commissioner for Taking Affidavits
for the Province of British Columbia
Expiry: February 28, 2022

BLUESHORE FINANCIAL CREDIT UNION
1250 LONSDALE AVE
NORTH VANCOUVER BC
V7M 2H6
(as to both signatures)


(as to both signatures)

Execution Date		
Y	M	D
19	07	03
19		

Transferor / Borrower / Party Signature(s)

BLUESHORE FINANCIAL CREDIT
UNION by its authorized signatory(ies):


Name: MICHAEL YUEN


Name: CHRIS MACEY

REALTECH CAPITAL GROUP INC. by
its authorized signatory(ies):

Name: _____

Name: _____

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 D
EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

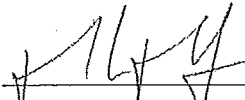
Y	M	D
19		
19	06	27

BLUESHORE FINANCIAL CREDIT UNION by its authorized signatory(ies):

Name: _____

Name: _____

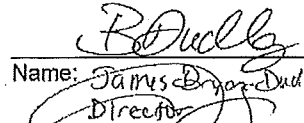
(as to both signatures)



MARK VON MARKSFELD
BARRISTER & SOLICITOR
1800 - 401 WEST GEORGIA STREET
VANCOUVER, BC V6B 5A1
TEL. 604-687-1323

19 06 27

REALTECH CAPITAL GROUP INC. by its authorized signatory(ies):


Name: *James C. McPherson*
Director

Name: _____
James C. McPherson
President

(as to both signatures)

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 D

EXECUTIONS CONTINUED

Officer Signature(s)

(as to both signatures)

(as to both signatures)

Execution Date		
Y	M	D
19		
19		

Transferor / Borrower / Party Signature(s)

BLUESHORE FINANCIAL CREDIT
UNION by its authorized signatory(ies):

Name:

Name:

REALTECH CAPITAL GROUP INC. by
its authorized signatory(ies):

Name:

Name:

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**

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Section 219 Covenant Entire Agreement

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		Granting the above Section 219 Covenant priority over Mortgage CA7435870 and Assignment of Rents CA7435871

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		Granting the above Section 219 Covenant Priority over Mortgage CA7435872 and Assignment of Rents CA7435873

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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LAND TITLE ACT
FORM E

SCHEDULE

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

5. TRANSFEROR(S):

HUA LONG INTERNATIONAL TECHNICAL INVESTMENT LTD. (INCORPORATION NO. BC1084431)

BLUESHORE FINANCIAL CREDIT UNION (INCORPORATION NO. F1 18), as to Priority (as to Mortgage CA7435870 and Assignment of Rents CA7435871)

REALTECH CAPITAL GROUP INC. (INCORPORATION NO. BC0268833), as to Priority (as to Mortgage CA7435872 and Assignment of Rents CA7435873)

TERMS OF INSTRUMENT - PART 2
HOUSING AGREEMENT AND BUILDING USE COVENANT
FOR MARKET RENTAL HOUSING
2153-2199 KINGSWAY

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- I. the Transferor, HUA LONG INTERNATIONAL TECHNICAL INVESTMENT 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 continued under the *Vancouver Charter*, 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 to rezone the Lands (the "Rezoning Application") from C-2 (Commercial) District to CD-1 (Comprehensive Development) District to permit the development of a six-storey mixed-use building containing commercial retail units at grade and 84 secured market residential rental units and, after a public hearing to consider the rezoning application, the rezoning application was approved by City Council in principle, subject to, among other things, fulfilment of the following condition:
- "6. Make arrangements to the satisfaction of the General Manager of Arts, Culture and Community Services and the Director of Legal Services to enter into a Housing Agreement and Section 219 Covenant securing all residential units as secured market rental housing units for the longer of 60 years and the life of the building, subject to the following additional conditions:*
- (i) *A no separate-sales covenant;*
 - (ii) *A no stratification covenant;*
 - (iii) *That none of such units will be rented for less than one month at a time;*
 - (iv) *Such other terms and conditions as the General Manager of Arts, Culture and Community Services and the Director of Legal Services may in their sole discretion require.*
- Note to Applicant: This condition will be secured by a Housing Agreement to be entered into by the City, by by-law, enacted pursuant to section 565.2 of the Vancouver Charter."*
- D. The Owner is entering into this Agreement to satisfy the foregoing 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

{101152-02276718.2}
June 25, 2019

Housing Agreement and Building Use Covenant
2153-2199 Kingsway

the City, 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 INTERPRETATION**

- 1.1 **Definitions.** Terms defined in this Section 1.1, unless specifically otherwise provided in this Agreement, will have the following meanings:
- (a) "Agreement" means this housing agreement and building use covenant, including the foregoing Recitals;
 - (b) "Building" means any new building or structure 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 the Building as contemplated by the Development Permit;
 - (d) "City" and "City of Vancouver" have the meaning ascribed to those terms in Recital A(ii);
 - (e) "City Manager" means the chief administrator from time to time of the City and his 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" means the development on the Lands described in Recital C and approved by the Development Permit;
 - (i) "Development Permit" means a development permit issued by the City at any time following date this Agreement is fully executed by the parties, authorizing the Development on the Lands or any portion of the Lands as contemplated by the Rezoning;
 - (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) "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;

- (l) "Housing Unit" means a self-contained residential unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (m) "Land Title Act" means the *Land Title Act*, R.S.B.C. 1996, c. 250;
- (n) "Lands" means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 in the Form C attached hereto, and includes any lots or parcels into which such land is consolidated or further subdivided;
- (o) "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;
- (p) "Occupancy Permit" means a permit issued by the City authorizing the use and occupation of the Building or any other development or partial development on the Lands contemplated by the Development Permit;
- (q) "Owner" means the registered owner of the Lands as of the Commencement Date, namely Hua Long International Technical Investment Ltd., and all of its permitted assigns, successors and successors in title to the Lands or any part thereof;
- (r) "Related Person" means, where the registered or beneficial owner of the Rental Housing Units is:
 - (i) a corporation (as that term is defined in the *Business Corporations Act* (British Columbia)), then a Related Person is:
 - A. an officer, director or shareholder of such corporation or of another entity which is a shareholder of such corporation; or
 - B. the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder referred to in paragraph A; and
 - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (s) "Rental Housing" means a Housing Unit which is not occupied by the registered or beneficial owner of the same or by a Related Person, but which is made available by such owner to the general public, at arms' length, for use as rental accommodation in accordance with this Agreement, reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto, including, without limitation, residential tenancy and human rights legislation in British Columbia;
- (t) "Rental Housing Units" has the meaning ascribed to that term in Section 2.1(c), and "Rental Housing Unit" means any one of such units;

- (u) "Replacement Rental Housing Unit" has the meaning ascribed to that term in section 2.1(j) and "Replacement Rental Housing Units" means all of such units;
- (v) "*Residential Tenancy Act*" means the *Residential Tenancy Act*, S.B.C. 2002, c. 78;
- (w) "Rezoning" means the rezoning of the Lands described in Recital C of this Agreement;
- (x) "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 Building is demolished or substantially destroyed; or
 - (ii) 60 years from the date when the final Occupancy Permit is issued for the Building;
- (y) "Vancouver" has the meaning ascribed to that term in Recital A(ii); and
- (z) "*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, SALE AND SUBDIVISION**

2.1 The Owner covenants and agrees that:

- (a) throughout the Term, the Lands and the Building will not be used in any way that is inconsistent with the terms of this Agreement;
- (b) if it carries out any development on the Lands after the Commencement Date, it will construct, fit and finish, at its sole cost and expense, the Building to contain eighty-four (84) Housing Units (or such other similar amount as may be approved at the Development Permit stage) and related amenity and parking spaces, in accordance with this Agreement, the conditions of the Development Permit, the Building Permit and all applicable City by-laws and policies, all to the satisfaction of the City;
- (c) throughout the Term, not less than all of the Housing Units will be used only for the purpose of providing Rental Housing (the "Rental Housing Units"), and not less than thirty-five percent (35%) of the Rental Housing Units will have at least two (2) bedrooms and will be designed to be suitable for families with children in accordance with the High-Density Housing for Families with Children Guidelines;
- (d) 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 Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) for a term of less than one month at a time;
- (e) 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 Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) to be sold or otherwise transferred unless title to every Rental Housing Unit (or Replacement For Rental Housing Unit, as applicable) is sold or otherwise transferred together and as a block to the same owner, and subject further to Section 7.9;
- (f) throughout the Term, it will not suffer, cause or permit the Lands or the Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided, whether by subdivision plan, strata plan or otherwise, without the prior written consent of the Director of Legal Services, which consent may be arbitrarily withheld;

- (g) throughout the Term, any sale of a Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) in contravention of the covenant in Section 2.1(e), and any subdivision of the Lands or the Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in contravention of 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) throughout the Term, it will insure, or cause to be insured, the 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;
- (i) throughout the Term, it will keep and maintain the Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, reasonable wear and tear excepted. If the Rental Housing Units (or Replacement Rental Housing Unit, as applicable) or any part of any thereof are/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; and
- (j) If the Building is destroyed or demolished before the end of the 60th anniversary of the date when the final Occupancy Permit is issued for the Building, 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 Rental Housing Units as the Building formerly contained, which replacement Rental Housing Units will also be used only for the purpose of providing Rental Housing (each such replacement Rental Housing Unit hereinafter referred to as a "Replacement Rental Housing Unit"), in accordance with the terms of this Agreement and the applicable by-laws of the City.

**ARTICLE 3
OCCUPANCY RESTRICTION ON THE LANDS**

- 3.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the 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 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, proof that the insurance, consistent with the requirements of Section 2.1(h), is in force and effect; and
 - (b) the City will be under no obligation to issue any Occupancy Permit for the Building or any part thereof, notwithstanding completion of construction of the Building until such time as the Owner has complied with Section 3.1(a).
- 3.2 Without limiting the general scope of Article 5, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses

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that may derive from the withholding of an Occupancy Permit for the Building until there is compliance with the provisions of this Article 3.

**ARTICLE 4
ENFORCEMENT**

- 4.1 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 5
RELEASE AND INDEMNITY**

- 5.1 Release and Indemnity. Subject to Section 5.2, the Owner hereby:

- (a) releases and discharges the City and all City Personnel from 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 Building or any part thereof;
- 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.

The indemnities in this Article 5 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted in this Agreement.

5.2 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 5.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 5.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 5.2(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 5.2(b); and

- (c) Regardless of whether the claim is being defended under Section 5.2(a) or Section 5.2(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.

- 5.3 Survival of Release and Indemnities. The release and indemnities in this Article 5 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 6
NOTICES**

6.1 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:

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

If to the Owner:

Hua Long International Technical Investment Ltd.

Attention: _____

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 7
MISCELLANEOUS**

- 7.1 **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.
- 7.2 **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.

- 7.3 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.
- 7.4 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.
- 7.5 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.
- 7.6 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.
- 7.7 Priority of Registration. 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 Rezoning or Development Permit; and
 - (c) which the Director of Legal Services has determined, in her/his sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.
- 7.8 Further Assurances. Each party shall 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.
- 7.9 Sale or Transfer 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 Sections 2.1(e) and 2.1(f), 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 7.9 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).

7.10 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.

IN WITNESS WHEREOF the parties have executed this Agreement on the Land Title Act Forms which are a part hereof.

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA7435870 and the Assignment of Rents registered under number CA7435871;
- (b) "Existing Chargeholder" means BLUESHORE FINANCIAL CREDIT UNION INCORPORATION NO. FI 18;
- (c) "New Charges" means the registrable charges and encumbrances created by and 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 Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which the Existing Chargeholder acknowledges, the Existing Chargeholder:

- (a) consents to the Owner granting the New Charges to the City; and
- (b) 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.

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CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA7435872 and the Assignment of Rents registered under number CA7435873;
- (b) "Existing Chargeholder" means REALTECH CAPITAL GROUP INC. INCORPORATION NO. BC0268833;
- (c) "New Charges" means the registrable charges and encumbrances created by and 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 Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which the Existing Chargeholder acknowledges, the Existing Chargeholder:

- (a) consents to the Owner granting the New Charges to the City; and
- (b) 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