

EXPLANATION**By-law to amend Zoning and Development By-law No. 3575
to rezone an area to CD-1 re: 8636-8656 Oak Street**

Following the Public Hearing on September 10, 2019 and the Regular Council meeting on September 11, 2019, Council gave conditional approval to the rezoning of the site at 8636-8656 Oak Street. The Director of Legal Services 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
October 7, 2020

8636-8656 Oak 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 or substitutes the boundaries and districts shown on it, according to the amendments, substitutions, explanatory legends, notations, and references shown on the plan marginally numbered Z-756 (c) attached as Schedule A to this By-law, and incorporates Schedule A into Schedule D of By-law No. 3575.

Uses

2.1 The area shown within the heavy black outline on Schedule A is hereby designated CD-1 (751).

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

- (a) Dwelling Uses, limited to Multiple Dwelling and Lock-off Units;
- (b) Retail Uses, limited to Public Bike Share; and
- (c) Accessory uses customarily ancillary to the uses permitted in this section.

Conditions of use

3. The design and layout of at least 35% 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 Computation of floor space ratio must assume that the site consists of 2,185 m², being the site size at the time of the application for the rezoning evidenced by this By-law, prior to any dedications.

4.2 The floor space ratio for all uses combined must not exceed 2.50.

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

4.4 Computation of floor area must exclude:

- (a) open residential balconies or sundecks and any other appurtenances which, in the opinion of the Director of Planning, are similar to the foregoing, except that:
 - (i) the total area of all such exclusions must not exceed 12% of the permitted floor area for dwelling units, and
 - (ii) the balconies must not be enclosed for the life of the building;
- (b) patios and roof gardens only 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 the base surface, except that the exclusion for a parking space must not exceed 7.3 m in length; and
- (d) all residential storage area above or below base surface, except that if the residential storage area above base surface exceeds 3.7 m² for a dwelling unit there will be no exclusion for any of the residential storage area above base surface for that unit.

4.5 Computation of floor area may exclude amenity areas, except that the total exclusion for amenity areas must not exceed 10% of permitted floor area.

4.6 The use of floor area excluded under sections 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 roof parapet above the uppermost storey, must not exceed 19.8 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 The Director of Planning or Development Permit Board may relax the horizontal angle of daylight requirement, if:

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

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 (751).

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 m².

Acoustics

7. A development permit application for dwelling uses must include an acoustical report prepared by a registered professional acoustic 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.

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

Zoning and Development By-law

8. Sections 2 through 14 of the Zoning and Development By-law apply to this CD-1 (751).



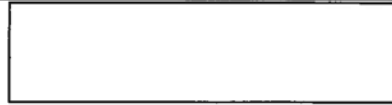
EXPLANATION**Authorization to enter into a Housing Agreement
Re: 3600 East Hastings Street**

After public hearings on January 21 and 28, 2020, Council approved in principle the land owner's application to rezone the above noted property from C2-C (Commercial) 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 Planning, Urban Design and Sustainability 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
October 6, 2020

**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 designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.4(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.



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

Norton Rose Fulbright Canada LLP
Barristers & Solicitors
#1800-510 West Georgia Street
Vancouver BC V6B 0M3

Phone: 604.687.6575
File No.: 1000370191
Doc. No.: 134670793
3600 Rezoning - Housing Agreement

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]
009-499-385 LOT A OF LOT 63 TOWN OF HASTINGS SUBURBAN LANDS PLAN 7974

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

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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

Officer Signature(s)

NICHOLAS SHON
BARRISTER & SOLICITOR
NORTON ROSE FULBRIGHT CANADA LLP
SUITE 1800 - 510 WEST GEORGIA STREET
VANCOUVER, B.C. V6B 0M3
(604) 641-4802

Execution Date		
Y	M	D
20	08	11

Transferor(s) Signature(s)
3600 EAST HASTINGS HOLDINGS
CORP. by its authorized signatory
(ies):

Name: Tim Grant
Name: _____

OFFICER CERTIFICATION:

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

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Y	M	D
20		

Transferor / Borrower / Party Signature(s)

CITY OF VANCOUVER by its
authorized signatory(ies):

Name: _____

Name: _____

OFFICER CERTIFICATION:

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

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)



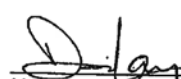
ALEX LYASKALO
A Commissioner for Taking Affidavits
for British Columbia
885 West Georgia St., Vancouver, BC V6C 3G1
Commission Expires: January 31, 2023

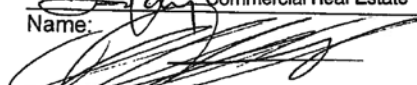
Execution Date

Y	M	D
20	08	10

Transferor / Borrower / Party Signature(s)

HSBC BANK CANADA by its
authorized signatory(ies):


Name: DANIEL JAY
Senior Account Manager
Commercial Real Estate


Name: GARTH STOLL
VICE PRESIDENT
COMMERCIAL REAL ESTATE

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		Entire Agreement Person Entitled to Interest: Transferee

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		granting the Covenant with one registration number less priority over Mortgage CA6375798 and Assignment of Rents CA6375799

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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**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):

3600 EAST HASTINGS HOLDINGS CORP. (Inc. No. BC1132025)
HSBC BANK CANADA (as to Priority)

TERMS OF INSTRUMENT - PART 2

**HOUSING AGREEMENT AND BUILDING USE COVENANT
SECURED RENTAL AND MODERATE INCOME RENTAL HOUSING**

3600 EAST HASTINGS STREET

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- (i) the Transferor, 3600 East Hastings Holdings Corp., 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 owner of the Lands;
- C. The Owner made an application to rezone the Lands (the "Rezoning Application") from C2-C (Commercial) District to CD-1 (Comprehensive Development) District, 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 condition that, prior to enactment of the rezoning by-law (upon enactment, the "Rezoning By-law"), the Owner make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement by by-law enacted pursuant to Section 565.2 of the *Vancouver Charter* securing all of the residential units as secured rental housing units with at least 20 percent of the residential floor areas counted in the calculation of the Floor Space Ratio of the New Building secured as Moderate Income Rental Housing Units pursuant to Section 3.1A of the Vancouver DCL Bylaw, for the longer of 60 years and life of the New Building, and subject to other conditions set forth in the minutes of the public hearing (collectively, the "Housing Condition"); and
- D. The Owner is entering into this Agreement to satisfy the 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, in satisfaction of the requirements of Section 3.1A of the Vancouver DCL By-law and pursuant to Section 565.2 of the *Vancouver Charter* and Section 219 of the *Land Title Act*, agree as follows, in respect of the use of the Lands and the New 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 and all schedules hereto;

- (b) **"Building Permit"** means any building permit issued by the City authorizing the building of a New Building as contemplated by the Rezoning By-law and the Development Permit;
- (c) **"City"** and **"City of Vancouver"** have the meaning ascribed to those terms in Recital A(ii);
- (d) **"City Manager"** means the chief administrator from time to time of the City and his or 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) **"Development Permit"** means any development permit issued by the City authorizing the development of the Lands contemplated by the Rezoning By-law;
- (g) **"Director of Legal Services"** means the chief administrator from time to time of the City's Legal Services Department and her/his successors in function and their respective nominees;
- (h) **"Discharge"** has the meaning ascribed to that term in Section 7.1(b);
- (i) **"Discharge Date"** means the date upon which the Owner files the Discharge with the Land Title Office;
- (j) **"Dwelling Unit"** has the meaning set out in the City's Zoning and Development By-law No. 3575, as amended or replaced from time to time;
- (k) **"Effective Date"** means the date as of which this Agreement has been executed by all parties to it;
- (l) **"Eligible Person"** means a person who:
 - (i) at the beginning of such person's tenancy of a Moderate Income Rental Housing Unit, together with all other Occupants of such Moderate Income Rental Housing Unit, have an aggregate annual household Income that is less than or equal to four (4) times the annual rent of such Moderate Income Rental Housing Unit; and
 - (ii) thereafter throughout such person's tenancy of a Moderate Income Rental Housing Unit, together with all other Occupants of such Moderate Income Rental Housing Unit, have an aggregate annual household Income that is less than or equal to five (5) times the annual rent of such Moderate Income Rental Housing Unit;
 - (iii) agrees that throughout such person's tenancy of a Moderate Income Rental Housing Unit, he or she will:
 - (A) not permit such Moderate Income Rental Housing Unit to be occupied by a person or persons other than those persons identified

- in the Tenancy Agreement as Tenants, Occupants, or otherwise having the right to occupy the Moderate Income Rental Housing Unit thereunder, for more than 60 consecutive days or more than 90 days in total in any calendar year, without the prior written consent of the Owner;
- (B) ensure that such Moderate Income Rental Housing Unit is occupied by a total number of Occupants equal to or greater than the total number of bedrooms therein;
 - (C) occupy such Moderate Income Rental Housing Unit as his or her Principal Residence;
 - (D) not permit such Moderate Income Rental Housing Unit to be vacant for a period of six months or longer, cumulatively within a calendar year, without the prior written consent of the Owner; and
 - (E) not sublet such Moderate Income Rental Housing Unit or assign the Tenancy Agreement in whole or in part;
- (m) **"Floor Space Ratio"** means the figure obtained when the area of the floors of the a building is divided by the area of the legal parcel on which such building is constructed;
 - (n) **"For-Profit Affordable Rental Housing"** means multiple Dwelling Units within a building for use as Rental Housing which meets the requirements of Section 3.1A of the Vancouver DCL By-law to be "for-profit affordable rental housing" (as defined therein), but does not include alterations of or extensions to those Dwelling Units;
 - (o) **"For-Profit Affordable Rental Housing Parcel"** has the meaning ascribed to that term in Section 7.1(a);
 - (p) **"For-Profit Affordable Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(d) and **"For-Profit Affordable Rental Housing Unit"** means any one of such units;
 - (q) **"General Manager of Planning, Urban Design and Sustainability"** means the person appointed from time to time as the City's General Manager of Planning, Urban Design and Sustainability and his/her successors in function and delegates and their respective nominees;
 - (r) **"Income"** of an Occupant means the total annual world-wide income before income tax from all sources of the Occupant and includes without limitation, the following income sources:
 - (i) income assistance;
 - (ii) employment, including regular overtime, vacation pay and gratuities;
 - (iii) self-employment, including commission sales;

- (iv) seasonal employment;
- (v) Employment Insurance and WorkSafe BC insurance;
- (vi) training allowances;
- (vii) income from the Resettlement Assistance Program;
- (viii) child support, maintenance payments or support from family/friends/community;
- (ix) rental income from real estate or dividends from stocks or bonds, if the real monthly income is greater than the imputed income from the Asset; and
- (x) pension incomes including:
 - (A) old Age Security, Guaranteed Income Supplement, Allowance, and Allowance for the Survivor (formerly Spousal Allowance);
 - (B) senior's supplement;
 - (C) private pension plans including Registered Retirement Income Funds;
 - (D) Canada Pension Plan, including retirement, disability, orphans, widows, disability for child, etc.
 - (E) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada (included for calculations with an effective date prior to January, 2013); and
 - (F) foreign pensions,

but does not include:

- (xi) earnings of dependent children aged 18 and under (regardless of student status);
- (xii) student loans, equalization payments, student grants and scholarships;
- (xiii) taxable benefits, including living out or travel allowances, medical coverage, uniform allowance, etc.;
- (xiv) Shelter Aid for Elderly Renters and Rental Assistance Program payments;
- (xv) Canada Child Tax Benefits, including the National Child Benefit Supplement, Child Disability Benefit, BC Family Bonus, and BC Earned Income Benefit;

- (xvi) Universal Child Care Benefits;
 - (xvii) BC Childcare Subsidy;
 - (xviii) income from foster parenting;
 - (xix) Child in Home of Relative and Extended Family Program;
 - (xx) income from approved live-in care givers;
 - (xxi) GST and Income Tax rebates; and
 - (xxii) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada;
- (s) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
- (t) "**Lands**" means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the Form C - General Instrument - Part 1, and includes any parcels into which such land is consolidated or further subdivided;
- (u) "**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, judgements, builders liens, 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;
- (v) "**Moderate Income Rental Housing**" means a portion of the For-Profit Affordable Rental Housing in a building that is comprised of at least 20% of the residential floor area that is counted in the calculation of the Floor Space Ratio for such building, consisting of Dwelling Units with average rents per unit type that meet the requirements of Section 2.1(q) of this Agreement, are made available for rent only to Eligible Persons in accordance with this Agreement and comply with the Moderate Income Rental Housing Pilot Program;
- (w) "**Moderate Income Rental Housing Pilot Program**" means the pilot program adopted by City Council on November 28, 2017, as amended on December 5, 2017, May 4, 2018 and November 26, 2019, which pilot program provides for, *inter alia*, the process, project requirements and available incentives for the development of new buildings where 100% of the residential floor area is secured rental housing and at least 20% of the residential floor area that is counted in the calculation of the Floor Space Ratio for such buildings is made available to moderate income households;
- (x) "**Moderate Income Rental Housing Report**" means a notarized annual report prepared by the Owner and delivered to the City providing information regarding each of the Moderate Income Rental Housing Units, including but not limited to the following:

- (i) unit number for the Moderate Income Rental Housing Unit;
- (ii) monthly rent rate;
- (iii) aggregate household Income of the Occupants;
- (iv) number of Occupants residing therein;
- (v) number of bedrooms contained therein;
- (vi) length of occupancy of the current Tenant; and
- (vii) the results of the verification conducted by the Owner pursuant to Section 2.1(h); and

such report shall not include the names or information of any Tenants or Occupants and shall otherwise be satisfactory to the General Manager of Planning, Urban Design and Sustainability in form and substance;

- (y) **"Moderate Income Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(d) and **"Moderate Income Rental Housing Unit"** means any one of such units;
- (z) **"New Building"** means any new building or structure to be built on the Lands as contemplated by the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (aa) **"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 issued after the Effective Date;
- (bb) **"Occupants"** means persons for whom a Rental Housing Unit serves as their principal residence and an **"Occupant"** means any one of them, as the context requires;
- (cc) **"Owner"** means the registered owner of the Lands as of the Effective Date, namely, 3600 East Hastings Holdings Corp., and its successors and permitted assigns;
- (dd) **"Personal Information Protection Act"** means the *Personal Information Protection Act*, S.B.C. 2003, c.63, and all amendments thereto and re-enactments thereof;
- (ee) **"Principal Residence"** means the usual place where an individual lives, makes his or her home and conducts his or her daily affairs, including, without limitation, paying bills and receiving mail, and is generally the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver's licenses, personal identification, vehicle registration and

utility bills and, for the purposes of this Agreement, a person may only have one principal residence;

- (ff) **"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*, S.B.C. 2002, c.57), then a Related Person is:
 - (A) an officer, director or shareholder of such Owner or of another entity which is a shareholder of such Owner; or
 - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder; and
 - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (gg) **"Rental Housing"** means a Dwelling 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 arm's length, for use as rental accommodation on a month-to-month basis or longer 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;
- (hh) **"Replacement For-Profit Affordable Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(d) and **"Replacement For-Profit Affordable Rental Housing Unit"** means one such unit;
- (ii) **"Replacement Moderate Income Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(d) and **"Replacement Moderate Income Rental Housing Unit"** means one such unit;
- (jj) **"Residential Tenancy Act"** means the *Residential Tenancy Act* S.B.C. 2002, c. 78 and all amendments thereto and re-enactments thereof;
- (kk) **"Residential Tenancy Regulation"** means the *Residential Tenancy Regulation*, B.C. Reg. 477/2003 and all amendments thereto and re-enactments thereof;
- (ll) **"Rezoning Application"** has the meaning ascribed to that term in Recital C;
- (mm) **"Rezoning By-law"** has the meaning ascribed to that term in Recital C;
- (nn) **"Statement of Moderate Income Rental Housing Unit Eligibility"** means a notarized statement, prepared by the Owner and delivered to the City, that states the following in respect of a Moderate Income Rental Housing Unit:
 - (i) confirmation that, to the best of the Owner's knowledge, the Tenant of such Moderate Income Rental Housing Unit is an Eligible Person;

- (ii) description of all of the actions and procedures that the Owner has undertaken to verify that the Tenant of such Moderate Income Rental Housing Unit is an Eligible Person; and
- (iii) such other information regarding such Moderate Income Rental Housing Unit and its Occupants as the General Manager of Planning, Urban Design and Sustainability may otherwise require;

provided that such statement shall not include the names or information of any Tenants or Occupants and shall otherwise be satisfactory to the General Manager of Planning, Urban Design and Sustainability in form and substance;

- (oo) "Tenancy Agreement" means a tenancy agreement, lease, licence or other agreement granting rights to occupy a Moderate Income Rental Housing Unit;
- (pp) "Tenant" means an Eligible Person who is a tenant of a Moderate Income Rental Housing Unit by way of a Tenancy Agreement;
- (qq) "Term" means the term of this Agreement, which will commence on the Effective Date and will end on the later of:
 - (i) the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building; and
 - (ii) the date as of which the New Building is demolished or substantially destroyed;
- (rr) "Vancouver" has the meaning ascribed to that term in Recital A(ii);
- (ss) "Vancouver Charter" means the *Vancouver Charter* S.B.C. 1953, c. 55, and all amendments thereto and re-enactments thereof; and
- (tt) "Vancouver DCL By-law" means the City's Vancouver Development Cost Levy By-law No. 9755, and all amendments thereto and re-enactments thereof.

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.
- (f) Legislation. Any reference to a statute or by-law includes and is a reference to such statute or by-law and to the regulations made pursuant thereto in force on the Effective Date, with all amendments made thereto and as in force from time to time, and to any statute, by-law and regulations that may be passed which have the effect of supplementing or superseding such statutes, by-laws and regulations.
- (g) Time. Time will be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time will be local Vancouver, British Columbia time.

ARTICLE 2 RESTRICTIONS ON USE OF LANDS AND SUBDIVISION

- 2.1 The Owner covenants and agrees with the City, in respect of the use of the Lands and the construction and use of the New Building, that throughout the Term:
 - (a) prior to the Discharge Date, the Lands and the New Building will not be used in any way that is inconsistent with the terms of this Agreement;
 - (b) after the Discharge Date, the For-Profit Affordable Rental Housing Units (including the Moderate Income Rental Housing Units) and the For-Profit Affordable Rental Housing Parcel will not be used in any way that is inconsistent with the terms of this Agreement;
 - (c) at its sole cost and expense, it will construct, fit and finish the New Building, including the For-Profit Affordable Rental Housing Units (including the Moderate Income Rental Housing Units) any amenities and parking spaces, to the satisfaction of the City and in accordance with this Agreement, the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies;
 - (d) all of the Dwelling Units in the New Building will be used only for the purpose of providing For-Profit Affordable Rental Housing (the "For-Profit Affordable Rental Housing Units"), provided that For-Profit Affordable Rental Housing Units comprising not less than twenty (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing (the

“Moderate Income Rental Housing Units”), all in accordance with the terms of this Agreement, the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building, 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 or replacement building(s) (together with any remaining undestroyed or undemolished building) will also contain not less than the same number and type of replacement Dwelling Units as the New Building formerly contained, which replacement Dwelling Units during the remainder of the Term, will also be used only for the purpose of providing For-Profit Affordable Rental Housing (such replacement Dwelling Units hereinafter referred to as a “Replacement For-Profit Affordable Rental Housing Units”) and Moderate Income Rental Housing (such replacement Dwelling Units hereinafter referred to as a “Replacement Moderate Income Rental Housing Units”) respectively, in the same percentages as set out in this Section and in accordance with the terms of this Agreement and the applicable by-laws of the City and such Replacement For-Profit Affordable Rental Housing Units and Replacement Moderate Income Rental Housing Units will be subject, for the remaining duration of the Term, to the same use restrictions, respectively, as the For-Profit Affordable Rental Housing Units, the Moderate Income Rental Housing Units and the For-Profit Affordable Rental Housing Parcel are pursuant to this Agreement;

- (e) not less than:
 - (i) 35% of the For-Profit Affordable Rental Housing Units; and
 - (ii) 35% of the Moderate Income Rental Housing Units;
 will have two or more bedrooms;
- (f) each of the Moderate Income Rental Housing Units shall not be rented, leased, licenced, used or otherwise permitted to be occupied unless it is rented, leased, licenced, used to or occupied by an Eligible Person and except in accordance with the following conditions:
 - (i) each Moderate Income Rental Housing Unit shall be rented only pursuant to a Tenancy Agreement, which Tenancy Agreement shall include a copy of this Agreement;
 - (ii) each Moderate Income Rental Housing Unit shall be rented for a monthly rent not exceeding the rent permitted to that type of Moderate Income Housing Unit, as described in Section 2.1(p);
 - (iii) each Moderate Income Rental Housing Unit shall be occupied only by an Eligible Person who is occupying such Moderate Income Rental Housing Unit as his or her Principal Residence and such other Occupants of the Eligible Person’s household as specified in the Tenancy Agreement between the Owner and the Eligible Person for the rental thereof;

- (iv) each Moderate Income Rental Housing Unit shall have at least one Occupant per bedroom thereof;
- (v) each Tenancy Agreement shall include:
 - (A) a clause requiring the Tenant and each permitted Occupant of the respective Moderate Income Rental Housing Unit to comply with this Agreement;
 - (B) the names of all Occupants of the respective Moderate Income Rental Housing Unit and a clause prohibiting any person not identified in the Tenancy Agreement from residing at the Moderate Income Rental Housing Unit for more than 60 consecutive days or more than 90 days total in any calendar year, unless the Tenant receives prior written consent from the Owner;
 - (C) subject to any contrary provisions in the *Residential Tenancy Act*, as determined to be contrary by a ruling or decision of any judicial body having jurisdiction, a clause entitling the Owner to terminate the Tenancy Agreement if:
 - I. the respective Moderate Income Rental Housing Unit is occupied by a person or persons other than those persons identified in the Tenancy Agreement for more than 60 consecutive days or more than 90 days total in any calendar year without the prior written consent from the Owner;
 - II. the respective Moderate Income Rental Housing Unit does not have at least one Occupant per bedroom thereof;
 - III. the annual aggregate Income of all Occupants of the respective Moderate Income Rental Housing Unit rise above the applicable maximum amount specified in Section 1.1(k)(ii);
 - IV. the respective Moderate Income Rental Housing Unit remains vacant for six months or longer, cumulatively, within a calendar year, without the prior written consent of the Owner, or ceases to be the Principal Residence of the Tenant, notwithstanding the timely payment of rent; or
 - V. the Tenant subleases the respective Moderate Income Rental Housing Unit or assigns the Tenancy Agreement in whole or in part;

and upon the Owner gaining knowledge of a breach of one of the foregoing provisions of the Tenancy Agreement, the Owner hereby agrees with the City to forthwith provide to the Tenant a notice of termination that will be effective two (2) months, except in respect of Sections 2.1(f)(v)(C)I to 2.1(f)(v)(C)III, in which case the termination will be effective six (6) months, following the date

that the Owner has delivered the notice of termination to the respective Tenant and the Owner shall cause all Occupants of the respective Moderate Income Rental Housing Unit to vacate the respective Moderate Income Rental Housing Unit on or before the effective date of termination of the Tenancy Agreement;

- (D) a clause:
 - I. wherein the Tenant consents to the collection, use and retention by the Owner and disclosure to the City of information, documentation and evidence described in Section 2.1(h); and
 - II. requiring the Tenant to deliver to the Owner the information, documentation and evidence described in Section 2.1(h)(ii) every five (5) years following the date on which the Tenant first occupies the Moderate Income Rental Housing Unit;
- (E) a clause prohibiting the Tenant from assigning its interest in the Tenancy Agreement or subletting the respective Moderate Income Rental Housing Unit; and
- (F) a term that is either on a month-to-month basis or for a fixed term of less than six (6) months;

unless otherwise permitted by the General Manager of Planning, Urban Design and Sustainability in his or her sole discretion;

- (g) if the Owner has terminated a Tenancy Agreement for the reasons specified in Sections 2.1(f)(v)(C)I to 2.1(f)(v)(C)III, the Owner shall offer another For-Profit Affordable Rental Housing Unit for rent to the former Tenant, subject to another For-Profit Affordable Rental Housing Unit being available for rent in the New Building and eligibility of the former Tenant in respect of other Moderate Income Rental Housing Units;
- (h) in connection with Section 2.1(f), throughout the Term, the Owner shall:
 - (i) prior to renting a Moderate Income Rental Housing Unit to a prospective tenant, or upon the change of any Occupants residing within a Moderate Income Rental Housing Unit from the Occupants listed in the Tenancy Agreement, verify, by obtaining all information, documentation or evidence necessary or such other information, documentation or evidence that the General Manager of Planning, Urban Design and Sustainability may deem necessary, that such prospective tenant is an Eligible Person and that there will be at least one Occupant per bedroom for such Moderate Income Rental Housing Unit upon occupancy; and
 - (ii) not less than once every five (5) years after the date on which a Moderate Income Rental Housing Unit was rented to a Tenant, verify, by all information, documentation or evidence necessary or such other

information, documentation or evidence that the General Manager of Planning, Urban Design and Sustainability may deem necessary, that such prospective tenant is an Eligible Person and that such Moderate Income Rental Housing Unit continues to have at least one Occupant per bedroom;

- (i) the Owner will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any For-Profit Affordable Rental Housing Unit for a term of less than one month at a time;
- (j) 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 For-Profit Affordable Rental Housing Unit to be sold or otherwise transferred unless title to every one of the For-Profit Affordable Rental Housing Unit is sold or otherwise transferred together and as a block to the same legal and beneficial owner, as applicable, and subject to Section 9.9;
- (k) the Owner will not suffer, cause or permit, the Lands or the New 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, subject to Article 7;
- (l) any sale of any For-Profit Affordable Rental Housing Unit in contravention of the covenant in Section 2.1(j), and any subdivision of the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(k), 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;
- (m) the Owner will:
 - (i) prior to the Discharge Date, keep and maintain the New Building and all parts thereof; and
 - (ii) after to the Discharge Date, keep and maintain the For-Profit Affordable Rental Housing Units and the For-Profit Affordable Rental Housing Parcel and all parts thereof,

in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings;
- (n) if:
 - (i) prior to the Discharge Date, the New Building or any part thereof, is damaged; and
 - (ii) after the Discharge Date, the For-Profit Affordable Rental Housing Units or any part thereof are damaged,

it 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 reasonable wear and tear excepted;

- (o) the Owner will insure, or cause to be insured:
- (i) prior to the Discharge Date, the New Building; and
 - (ii) after the Discharge Date, the For-Profit Affordable Rental Housing Units and For-Profit Affordable Rental Housing Parcel;

to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands;

- (p) the average size of the For-Profit Affordable Rental Housing Units will be at or below the following sizes:

<u>UNIT TYPE</u>	<u>AVERAGE SIZE (APARTMENT)</u>	<u>AVERAGE SIZE (TOWNHOUSE)</u>
Studio	42 square metres	N/A
1 Bedroom	56 square metres	56 square metres
2 Bedrooms	77 square metres	90 square metres
3 Bedrooms	97 square metres	112 square metres
4 Bedrooms	N/A	125 square metres

except that the floor area used for stairways within the townhouse units of two or more storeys is excluded from the calculation of maximum unit size;

- (q) with respect to the Moderate Income Rental Housing Units:
- (i) the average initial starting monthly rents for each unit type will be at or below the following amounts:

<u>UNIT TYPE</u>	<u>AVERAGE MONTHLY STARTING RENTS</u>
Studio	\$950
1 Bedroom	\$1,200
2 Bedrooms	\$1,600
3 Bedrooms	\$2,000

- (ii) the rents to be charged by the Owner to the first Tenants of each of the Moderate Income Housing Rental Units in the New Building following

issuance of the Occupancy Permit are as set forth in the rent roll attached hereto as Schedule A and as confirmed by delivery to the City pursuant to Section 4.1(a)(ii), save and except that, subject to the terms of this Agreement, including, without limitation, that not less than twenty (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing, the Owner may substitute and re-assign the designation of specific Dwelling Units in the New Building as Moderate Income Housing Rental Units, on a one-for-one basis, with other Dwelling Units in the New Building of the same unit type that are equal to or greater in size to the Dwelling Unit being substituted, such that the unit type mix and number of Moderate Income Housing Rental Units in the New Building remain unchanged;

- (iii) the Owner shall not increase the monthly rents for any of the Moderate Income Rental Housing Units, except for annual increases in monthly rent following the issuance of an Occupancy Permit by an amount not to exceed the annual allowable increase in rent permitted under Section 22 of the *Residential Tenancy Regulation* (as may be amended, replaced or re-enacted) and for clarity, the Owner shall not increase the monthly rent for a Moderate Income Rental Housing Unit in any other circumstance, including but not limited to, any change in tenancy or occupancy of a Moderate Income Rental Housing Unit.

ARTICLE 3

DEVELOPMENT PERMIT RESTRICTION ON THE LANDS

- 3.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:
 - (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Development Permit, and will take no action, directly or indirectly, to compel the issuance of any Development Permit, until such time as the Owner has delivered a rent roll to, and to the satisfaction of, the General Manager of Planning, Urban Design and Sustainability confirming the rents proposed to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit, and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Moderate Income Rental Housing Units when the Development Permit is issued; and
 - (ii) the City will be under no obligation to issue any Development Permit until such time as the Owner has complied with Section 3.1(a)(i); and
 - (b) 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 a Development Permit until there is compliance with the provisions of this Article 3.

**ARTICLE 4
OCCUPANCY RESTRICTION ON THE LANDS**

- 4.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:
- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) 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 until such time as the Owner has delivered, to the satisfaction of the General Manager of Planning, Urban Design and Sustainability:
 - (A) a final rent roll confirming the rents to be charged to the first tenants of the Moderate Income Rental 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 shall comply with those applicable to the Moderate Income Rental Housing Units; and
 - (B) proof of the insurance, consistent with the requirements of Section 2.1(o), is in force and effect, in form and substance satisfactory to the City;
 - (ii) 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 4.1(a)(i);
 - (b) 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 4.

**ARTICLE 5
RECORD KEEPING**

- 5.1 The Owner will keep accurate records pertaining to the use, occupancy and rental rates charged of/for the Moderate Income Rental Housing Units, such records to be to the satisfaction of the General Manager of Planning, Urban Design and Sustainability. The Owner will:
- (a) on each anniversary of the date of issuance of the first Occupancy Permit for any portion of the For-Profit Affordable Rental Housing Parcel or at the request of the City, provide an updated Moderate Income Rental Housing Report to the General Manager of Planning, Urban Design and Sustainability;
 - (b) within ninety (90) days of:

- (i) a change in any Occupant of a Moderate Income Rental Housing Unit;
- (ii) the date that is the fifth anniversary of the date on which a Moderate Income Rental Housing Unit was rented to a Tenant and every five (5) years thereafter; and
- (iii) at the request of the General Manager of Planning, Urban Design and Sustainability, from time to time,

complete and deliver to the City a Statement of Moderate Income Rental Housing Unit Eligibility in respect of such Moderate Income Rental Housing Unit;

- (c) at the request of the General Manager of Planning, Urban Design and Sustainability, from time to time:
 - (i) make such records available for audit, inspection and copying by City staff, subject to applicable restrictions in any tenancy, privacy and other laws which place limitations on such disclosure; and
 - (ii) provide evidence of the insurance required to be taken out pursuant to Section 2.1(o); and
- (d) comply with the *Personal Information Protection Act* in collecting, using, retaining and disclosing the information of any person, Tenant or Occupant pursuant to its obligations under this Agreement and any Tenancy Agreement.

ARTICLE 6 RELEASE AND INDEMNITY

6.1 Release and Indemnity. Subject to Section 6.2, the Owner hereby:

- (a) will not make any claims against the City or City Personnel and releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner in connection with this Agreement, including without limitation:
 - (i) by reason of the City or City Personnel:
 - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - B. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement
 - C. withholding any permit pursuant to this Agreement; or
 - D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement 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, except in each case to the extent attributable to the wrongful intentional acts 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 or which could not have been sustained "but for" any of the following:

- (i) this Agreement;

- (ii) the City or City Personnel:

- A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
- B. withholding any permit pursuant to this Agreement;
- C. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement; or
- D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or

- (iii) 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

- (iv) any default in the due observance and performance of the obligations and responsibilities of the Owner under 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.

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(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 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 SUBDIVISION OF THE LANDS

- 7.1 By Air Space Subdivision Plan. Notwithstanding Section 2.1(k):

- (a) subject to compliance by the Owner with all applicable requirements of the City's Approving Officer and the City's elected Council, this Agreement and all applicable laws and by-laws, the City will not unreasonably withhold its consent to a subdivision of the Lands and the New Building by the deposit of an air space subdivision plan, provided that all the For-Profit Affordable Rental Housing Units

will thereafter be contained within a single air space parcel (the "For-Profit Affordable Rental Housing Parcel"); and

- (b) following such a subdivision and the issuance of a final occupancy permit for the For-Profit Affordable Rental Housing Parcel, the Owner may apply to the City for a partial discharge of this Agreement (the "Discharge") with respect to any parcel other than the For-Profit Affordable Rental Housing Parcel, and the City will on request of the Owner execute and deliver a registrable Discharge in respect of such other parcel(s) provided, that:
 - (i) the Director of Legal Services is satisfied that the Discharge will not unreasonably alter, restrict or limit the City's rights and the Owner's agreements and obligations in respect of the For-Profit Affordable Rental Housing Units, including, for clarity, the Moderate Income Rental Housing Units or in respect of the For-Profit Affordable Rental Housing Parcel, pursuant to this Agreement;
 - (ii) the Discharge will be in form and substance acceptable to the Director of Legal Services and will be prepared by the Owner at its cost;
 - (iii) the City will have a reasonable amount of time to execute and return the Discharge; and
 - (iv) the preparation and registration of the Discharge will be without cost to the City.

ARTICLE 8 NOTICES

- 8.1 All notices, demands or requests of any kind which one party may be required or permitted to give to the other in connection with this Agreement, will be in writing and will be given by registered mail or personal delivery, addressed as set forth below. Any such notice, demand or request will be deemed given:
- (a) if made by registered mail, on the earlier of the day receipt is acknowledged by the addressee or the third day after it was mailed, except when there is a postal service disruption during such period, in which case delivery will be deemed to be completed upon actual delivery of the notice, demand or request; and
 - (b) if personally delivered, on the date when delivered.

If to the City, addressed to:

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

Attention: General Manager of Planning, Urban Design and Sustainability with a concurrent copy to the Director of Legal Services

If to the Owner, addressed to:

3600 East Hastings Holdings Corp.
 #300 - 1030 West Georgia Street
 Vancouver, British Columbia
 V6E 2Y3

Attention: Tim Grant

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 9 MISCELLANEOUS

- 9.1 Agreement Runs With the Lands. The covenants and agreements set forth herein on the part of the Owner will be covenants the burden of which will run with and will bind the Lands and will attach thereto subject to Article 7. Upon the sale or transfer of any legal or beneficial interest in the Lands and/or the New Building or any part thereof in accordance with the provisions of Section 9.9, 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.
- 9.2 Agreement to be a First Charge. The Owner agrees to cause, at its sole cost and expense, the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:
- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
 - (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of any rezoning or any Development Permit; and
 - (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.
- 9.3 Owner Operating on Behalf of the City. The City has required that the Owner enter into this Agreement to satisfy the Housing Condition, as described in Recital C and notwithstanding that the Owner is the owner of the Lands, the Owner and the City acknowledge and agree that for the duration of the Term, the Owner shall operate (within the meaning of Section 49.1(1)(a) of the Residential Tenancy Act) the Moderate Income Rental Housing Units on behalf of the City in accordance with the terms and conditions of this Agreement and provided always that nothing contained in this

Agreement nor any acts of the Owner or the City shall be deemed to create any agency, fiduciary, trust, or similar relationship between the Owner and the City.

- 9.4 Application of Residential Tenancy Act to Termination Notice. The City agrees that, in the event the Owner delivers a termination notice to a Tenant pursuant to Section 2.1(f), and such termination notice is found to be ineffective by a ruling or decision of any judicial body having jurisdiction in connection with the *Residential Tenancy Act*, the Owner shall not be in breach of its obligation to ensure that:
- (a) not less than twenty (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing, as set out in Section 2.1(d) as a result of such termination notice being ineffective and for clarity, the Moderate Income Rental Housing Unit to which such ineffective termination notice relates shall continue to count towards the aforementioned twenty (20) percent of the residential floor areas, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant; and
 - (b) the Moderate Income Rental Housing Unit to which such ineffective termination notice relates shall not be rented, leased, licenced, used or otherwise permitted to be occupied unless it is rented, leased, licenced, used to or occupied by an Eligible Person, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant.

For additional certainty, the Owner shall not have liability to the City under this Agreement (or otherwise) with respect to such termination notice being deemed ineffective, and shall not be required to perform any additional acts in connection therewith.

- 9.5 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.
- 9.6 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.
- 9.7 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.
- 9.8 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.

- 9.9 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*.
- 9.10 Further Amendments to the Moderate Income Rental Housing Pilot Program. Subject to approval by City Council and the General Manager of Planning, Urban Design and Sustainability, at their sole discretion and at the sole cost and expense of the Owner, the Owner and the City will execute such further and other documents and instruments (registrable or otherwise) and do such further and other acts as may be necessary to implement and carry out and give effect to future amendments and revisions to the Moderate Income Rental Housing Pilot Program.
- 9.11 Sale of Lands and New Building or Part Thereof. Prior to the sale or transfer of any legal or beneficial interest (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), and subject always to Sections 2.1(j) and 2.1(k):
- (a) prior to the Discharge Date, the Owner of the Lands and the New Building; or
 - (b) after the Discharge Date, the Owner of the For-Profit Affordable Rental Housing Parcel;

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 such Owner under this Agreement. The provisions in this Section 9.9 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).

- 9.12 Owner's Representations. The Owner represents and warrants to and covenants and agrees with the City that:
- (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all legal 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 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.
- 9.13 Liability. Notwithstanding anything to the contrary contained herein, the Owner shall not be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Owner ceases to have any further interest in the Lands.
- 9.14 Enurement. This Agreement will enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement will enure to the benefit of and be binding upon the Owner and its successors and assigns.

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

Schedule A

B. RENT ROLL - Moderate Income Rental Units

Unit #	Bedroom Type (select from drop-down menu)	Starting Monthly Rental Rate (\$)	Unit Size (Net area)	
			<input type="checkbox"/> m ²	<input checked="" type="checkbox"/> ft ²
1	Studio	950		315
101	1-bed	1200		519
202	1-bed	1200		507
203	3-bed	2000		792
208	2-bed	1600		734
209	2-bed	1600		769
302	1-bed	1200		503
303	3-bed	2000		792
305	Studio	950		323
309	2-bed	1600		769
406	1-bed	1200		592
407	Studio	950		327
408	2-bed	1600		733
505	Studio	950		323
506	1-bed	1200		593
509	2-bed	1600		707
601	1-bed	1200		429
605	Studio	950		323
608	2-bed	1600		696

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA6663169 and the Assignment of Rents registered under number CA6663170;
- (b) "Existing Chargeholder" means HSBC BANK CANADA;
- (c) "New Charges" means the Housing Agreement and Section 219 Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

For \$10 and other good and valuable consideration, the receipt and sufficiency of which the Existing Chargeholder acknowledges, the Existing Chargeholder:

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

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

END OF DOCUMENT

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 3680 East Hastings Street**

After public hearings on January 21 and 28, 2020, Council approved in principle the land owner's application to rezone the above noted property from C2-C (Commercial) 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 Planning, Urban Design and Sustainability 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
October 6, 2020

3680 East Hastings Street

BY-LAW NO.

**A By-law to enact a Housing Agreement
for 3680 East Hastings 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:

031-061-338

Lot 1 of Lot 63 Town of Hastings Suburban Lands Plan
EPP101107

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 , 2020

Mayor

Acting 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 designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.4(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.



1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)
Norton Rose Fulbright Canada LLP
Barristers & Solicitors
#1800-510 West Georgia Street
Vancouver BC V6B 0M3
 Phone: 604.687.6575
 File No.: 1000381175
 Doc. No.: 134670732
 3680 Rezoning - Housing Agreement
- Deduct LTSA Fees? Yes
2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
 [PID] [LEGAL DESCRIPTION]
031-061-338 LOT 1 OF LOT 63 TOWN OF HASTINGS SUBURBAN LANDS PLAN EPP101107
- STC? YES

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

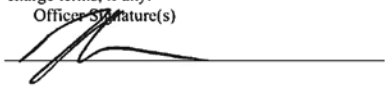
4. TERMS: Part 2 of this instrument consists of (select one only)
 (a) Filed Standard Charge Terms D.F. No. (b) Express Charge Terms Annexed as Part 2
 A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):
SEE SCHEDULE


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

7. ADDITIONAL OR MODIFIED TERMS:
N/A

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

Officer Signature(s)

NICHOLAS SHON
BARRISTER & SOLICITOR
NORTON ROSE FULBRIGHT CANADA LLP
SUITE 1800 - 510 WEST GEORGIA STREET
VANCOUVER, B.C. V6B 0M3
(604) 841-4802

Execution Date		
Y	M	D
20	08	11

Transferor(s) Signature(s)
3680 EAST HASTINGS HOLDINGS CORP. by its authorized signatory (ies):

Name: Tim Grant
 Name: _____

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

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Y	M	D
20		

Transferor / Borrower / Party Signature(s)

CITY OF VANCOUVER by its
authorized signatory(ies):

Name: _____

Name: _____

OFFICER CERTIFICATION:

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

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)



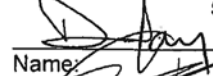
ALEX LYASKALO
A Commissioner for Taking Affidavits
for British Columbia
685 West Georgia St., Vancouver, BC V6C 3G1
Commission Expires: January 31, 2023

Execution Date

Y	M	D
20	08	10

Transferor / Borrower / Party Signature(s)

HSBC BANK CANADA by its
authorized signatory(ies) **DANIEL JAY**
Senior Account Manager
Commercial Real Estate



Name:



Name:

GARTH STOLL
VICE PRESIDENT
COMMERCIAL REAL ESTATE

OFFICER CERTIFICATION:

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

**LAND TITLE ACT
FORM E****SCHEDULE**

PAGE 4 OF 31 PAGES

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Entire Agreement Person Entitled to Interest: Transferee
Priority Agreement		granting the Covenant with one registration number less priority over Mortgage CA6663169 and Assignment of Rents CA6663170
NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION

**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):

**3680 EAST HASTINGS HOLDINGS CORP., INC.NO. BC1152804
HSBC BANK CANADA (as to Priority)**

TERMS OF INSTRUMENT - PART 2

HOUSING AGREEMENT AND BUILDING USE COVENANT
SECURED RENTAL AND MODERATE INCOME RENTAL HOUSING

3680 EAST HASTINGS STREET

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- (i) the Transferor, 3680 East Hastings Holdings Corp., 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 owner of the Lands;
- C. The Owner made an application to rezone the Lands (the "Rezoning Application") from C2-C (Commercial) District to CD-1 (Comprehensive Development) District, 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 condition that, prior to enactment of the rezoning by-law (upon enactment, the "Rezoning By-law"), the Owner make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement by by-law enacted pursuant to Section 565.2 of the *Vancouver Charter* securing all of the residential units as secured rental housing units with at least 20 percent of the residential floor areas counted in the calculation of the Floor Space Ratio of the New Building secured as Moderate Income Rental Housing Units pursuant to Section 3.1A of the Vancouver DCL Bylaw, for the longer of 60 years and life of the New Building, and subject to other conditions set forth in the minutes of the public hearing (collectively, the "Housing Condition"); and
- D. The Owner is entering into this Agreement to satisfy the 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, in satisfaction of the requirements of Section 3.1A of the Vancouver DCL By-law and pursuant to Section 565.2 of the *Vancouver Charter* and Section 219 of the *Land Title Act*, agree as follows, in respect of the use of the Lands and the New 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 and all schedules hereto;

- (b) **"Building Permit"** means any building permit issued by the City authorizing the building of a New Building as contemplated by the Rezoning By-law and the Development Permit;
- (c) **"City"** and **"City of Vancouver"** have the meaning ascribed to those terms in Recital A(ii);
- (d) **"City Manager"** means the chief administrator from time to time of the City and his or 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) **"Development Permit"** means any development permit issued by the City authorizing the development of the Lands contemplated by the Rezoning By-law;
- (g) **"Director of Legal Services"** means the chief administrator from time to time of the City's Legal Services Department and her/his successors in function and their respective nominees;
- (h) **"Discharge"** has the meaning ascribed to that term in Section 7.1(b);
- (i) **"Discharge Date"** means the date upon which the Owner files the Discharge with the Land Title Office;
- (j) **"Dwelling Unit"** has the meaning set out in the City's Zoning and Development By-law No. 3575, as amended or replaced from time to time;
- (k) **"Effective Date"** means the date as of which this Agreement has been executed by all parties to it;
- (l) **"Eligible Person"** means a person who:
 - (i) at the beginning of such person's tenancy of a Moderate Income Rental Housing Unit, together with all other Occupants of such Moderate Income Rental Housing Unit, have an aggregate annual household Income that is less than or equal to four (4) times the annual rent of such Moderate Income Rental Housing Unit; and
 - (ii) thereafter throughout such person's tenancy of a Moderate Income Rental Housing Unit, together with all other Occupants of such Moderate Income Rental Housing Unit, have an aggregate annual household Income that is less than or equal to five (5) times the annual rent of such Moderate Income Rental Housing Unit;
 - (iii) agrees that throughout such person's tenancy of a Moderate Income Rental Housing Unit, he or she will:
 - (A) not permit such Moderate Income Rental Housing Unit to be occupied by a person or persons other than those persons identified

in the Tenancy Agreement as Tenants, Occupants, or otherwise having the right to occupy the Moderate Income Rental Housing Unit thereunder, for more than 60 consecutive days or more than 90 days in total in any calendar year, without the prior written consent of the Owner;

- (B) ensure that such Moderate Income Rental Housing Unit is occupied by a total number of Occupants equal to or greater than the total number of bedrooms therein;
 - (C) occupy such Moderate Income Rental Housing Unit as his or her Principal Residence;
 - (D) not permit such Moderate Income Rental Housing Unit to be vacant for a period of six months or longer, cumulatively within a calendar year, without the prior written consent of the Owner; and
 - (E) not sublet such Moderate Income Rental Housing Unit or assign the Tenancy Agreement in whole or in part;
- (m) **"Floor Space Ratio"** means the figure obtained when the area of the floors of the a building is divided by the area of the legal parcel on which such building is constructed;
- (n) **"For-Profit Affordable Rental Housing"** means multiple Dwelling Units within a building for use as Rental Housing which meets the requirements of Section 3.1A of the Vancouver DCL By-law to be "for-profit affordable rental housing" (as defined therein), but does not include alterations of or extensions to those Dwelling Units;
- (o) **"For-Profit Affordable Rental Housing Parcel"** has the meaning ascribed to that term in Section 7.1(a);
- (p) **"For-Profit Affordable Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(d) and **"For-Profit Affordable Rental Housing Unit"** means any one of such units;
- (q) **"General Manager of Planning, Urban Design and Sustainability"** means the person appointed from time to time as the City's General Manager of Planning, Urban Design and Sustainability and his/her successors in function and delegates and their respective nominees;
- (r) **"Income"** of an Occupant means the total annual world-wide income before income tax from all sources of the Occupant and includes without limitation, the following income sources:
- (i) income assistance;
 - (ii) employment, including regular overtime, vacation pay and gratuities;
 - (iii) self-employment, including commission sales;

- (iv) seasonal employment;
- (v) Employment Insurance and WorkSafe BC insurance;
- (vi) training allowances;
- (vii) income from the Resettlement Assistance Program;
- (viii) child support, maintenance payments or support from family/friends/community;
- (ix) rental income from real estate or dividends from stocks or bonds, if the real monthly income is greater than the imputed income from the asset; and
- (x) pension incomes including:
 - (A) old age security, guaranteed income supplement, allowance, and allowance for the survivor (formerly spousal allowance);
 - (B) senior's supplement;
 - (C) private pension plans including registered retirement income funds;
 - (D) Canada Pension Plan, including retirement, disability, orphans, widows, disability for child, etc.
 - (E) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada (included for calculations with an effective date prior to January, 2013); and
 - (F) foreign pensions,

but does not include:

- (xi) earnings of dependent children aged 18 and under (regardless of student status);
- (xii) student loans, equalization payments, student grants and scholarships;
- (xiii) taxable benefits, including living out or travel allowances, medical coverage, uniform allowance, etc.;
- (xiv) Shelter Aid for Elderly Renters and Rental Assistance Program payments;
- (xv) Canada Child Tax Benefits, including the National Child Benefit Supplement, Child Disability Benefit, BC Family Bonus, and BC Earned Income Benefit;

- (xvi) Universal Child Care Benefits;
 - (xvii) BC Childcare Subsidy;
 - (xviii) income from foster parenting;
 - (xix) Child in Home of Relative and Extended Family Program;
 - (xx) income from approved live-in care givers;
 - (xxi) GST and Income Tax rebates; and
 - (xxii) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada;
- (s) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
 - (t) "**Lands**" means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the Form C - General Instrument - Part 1, and includes any parcels into which such land is consolidated or further subdivided;
 - (u) "**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, judgements, builders liens, 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;
 - (v) "**Moderate Income Rental Housing**" means a portion of the For-Profit Affordable Rental Housing in a building that is comprised of at least 20% of the residential floor area that is counted in the calculation of the Floor Space Ratio for such building, consisting of Dwelling Units with average rents per unit type that meet the requirements of Section 2.1(q) of this Agreement, are made available for rent only to Eligible Persons in accordance with this Agreement and comply with the Moderate Income Rental Housing Pilot Program;
 - (w) "**Moderate Income Rental Housing Pilot Program**" means the pilot program adopted by City Council on November 28, 2017, as amended on December 5, 2017, May 4, 2018 and November 26, 2019, which pilot program provides for, *inter alia*, the process, project requirements and available incentives for the development of new buildings where 100% of the residential floor area is secured rental housing and at least 20% of the residential floor area that is counted in the calculation of the Floor Space Ratio for such buildings is made available to moderate income households;
 - (x) "**Moderate Income Rental Housing Report**" means a notarized annual report prepared by the Owner and delivered to the City providing information regarding each of the Moderate Income Rental Housing Units, including but not limited to the following:

- (i) unit number for the Moderate Income Rental Housing Unit;
- (ii) monthly rent rate;
- (iii) aggregate household Income of the Occupants;
- (iv) number of Occupants residing therein;
- (v) number of bedrooms contained therein;
- (vi) length of occupancy of the current Tenant; and
- (vii) the results of the verification conducted by the Owner pursuant to Section 2.1(h); and

such report shall not include the names or information of any Tenants or Occupants and shall otherwise be satisfactory to the General Manager of Planning, Urban Design and Sustainability in form and substance;

- (y) **"Moderate Income Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(d) and **"Moderate Income Rental Housing Unit"** means any one of such units;
- (z) **"New Building"** means any new building or structure to be built on the Lands as contemplated by the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (aa) **"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 issued after the Effective Date;
- (bb) **"Occupants"** means persons for whom a Rental Housing Unit serves as their principal residence and an **"Occupant"** means any one of them, as the context requires;
- (cc) **"Owner"** means the registered owner of the Lands as of the Effective Date, namely, 3680 East Hastings Holdings Corp., and its successors and permitted assigns;
- (dd) **"Personal Information Protection Act"** means the *Personal Information Protection Act*, S.B.C. 2003, c.63, and all amendments thereto and re-enactments thereof;
- (ee) **"Principal Residence"** means the usual place where an individual lives, makes his or her home and conducts his or her daily affairs, including, without limitation, paying bills and receiving mail, and is generally the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver's licenses, personal identification, vehicle registration and

utility bills and, for the purposes of this Agreement, a person may only have one principal residence;

- (ff) **"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*, S.B.C. 2002, c.57), then a Related Person is:
 - (A) an officer, director or shareholder of such Owner or of another entity which is a shareholder of such Owner; or
 - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder; and
 - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (gg) **"Rental Housing"** means a Dwelling 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 arm's length, for use as rental accommodation on a month-to-month basis or longer 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;
- (hh) **"Replacement For-Profit Affordable Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(d) and **"Replacement For-Profit Affordable Rental Housing Unit"** means one such unit;
- (ii) **"Replacement Moderate Income Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(d) and **"Replacement Moderate Income Rental Housing Unit"** means one such unit;
- (jj) **"Residential Tenancy Act"** means the *Residential Tenancy Act* S.B.C. 2002, c. 78 and all amendments thereto and re-enactments thereof;
- (kk) **"Residential Tenancy Regulation"** means the *Residential Tenancy Regulation*, B.C. Reg. 477/2003 and all amendments thereto and re-enactments thereof;
- (ll) **"Rezoning Application"** has the meaning ascribed to that term in Recital C;
- (mm) **"Rezoning By-law"** has the meaning ascribed to that term in Recital C;
- (nn) **"Statement of Moderate Income Rental Housing Unit Eligibility"** means a notarized statement, prepared by the Owner and delivered to the City, that states the following in respect of a Moderate Income Rental Housing Unit:
 - (i) confirmation that, to the best of the Owner's knowledge, the Tenant of such Moderate Income Rental Housing Unit is an Eligible Person;

- (ii) description of all of the actions and procedures that the Owner has undertaken to verify that the Tenant of such Moderate Income Rental Housing Unit is an Eligible Person; and
- (iii) such other information regarding such Moderate Income Rental Housing Unit and its Occupants as the General Manager of Planning, Urban Design and Sustainability may otherwise require;

provided that such statement shall not include the names or information of any Tenants or Occupants and shall otherwise be satisfactory to the General Manager of Planning, Urban Design and Sustainability in form and substance;

- (oo) "**Tenancy Agreement**" means a tenancy agreement, lease, licence or other agreement granting rights to occupy a Moderate Income Rental Housing Unit;
- (pp) "**Tenant**" means an Eligible Person who is a tenant of a Moderate Income Rental Housing Unit by way of a Tenancy Agreement;
- (qq) "**Term**" means the term of this Agreement, which will commence on the Effective Date and will end on the later of:
 - (i) the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building; and
 - (ii) the date as of which the New Building is demolished or substantially destroyed;
- (rr) "**Vancouver**" has the meaning ascribed to that term in Recital A(ii);
- (ss) "**Vancouver Charter**" means the *Vancouver Charter* S.B.C. 1953, c. 55, and all amendments thereto and re-enactments thereof; and
- (tt) "**Vancouver DCL By-law**" means the City's Vancouver Development Cost Levy By-law No. 9755, and all amendments thereto and re-enactments thereof.

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.
- (f) Legislation. Any reference to a statute or by-law includes and is a reference to such statute or by-law and to the regulations made pursuant thereto in force on the Effective Date, with all amendments made thereto and as in force from time to time, and to any statute, by-law and regulations that may be passed which have the effect of supplementing or superseding such statutes, by-laws and regulations.
- (g) Time. Time will be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time will be local Vancouver, British Columbia time.

**ARTICLE 2
RESTRICTIONS ON USE OF LANDS AND SUBDIVISION**

- 2.1 The Owner covenants and agrees with the City, in respect of the use of the Lands and the construction and use of the New Building, that throughout the Term:
 - (a) prior to the Discharge Date, the Lands and the New Building will not be used in any way that is inconsistent with the terms of this Agreement;
 - (b) after the Discharge Date, the For-Profit Affordable Rental Housing Units (including the Moderate Income Rental Housing Units) and the For-Profit Affordable Rental Housing Parcel will not be used in any way that is inconsistent with the terms of this Agreement;
 - (c) at its sole cost and expense, it will construct, fit and finish the New Building, including the For-Profit Affordable Rental Housing Units (including the Moderate Income Rental Housing Units) any amenities and parking spaces, to the satisfaction of the City and in accordance with this Agreement, the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies;
 - (d) all of the Dwelling Units in the New Building will be used only for the purpose of providing For-Profit Affordable Rental Housing (the "**For-Profit Affordable Rental Housing Units**"), provided that For-Profit Affordable Rental Housing Units comprising not less than twenty (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing (the

“Moderate Income Rental Housing Units”), all in accordance with the terms of this Agreement, the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building, 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 or replacement building(s) (together with any remaining undestroyed or undemolished building) will also contain not less than the same number and type of replacement Dwelling Units as the New Building formerly contained, which replacement Dwelling Units during the remainder of the Term, will also be used only for the purpose of providing For-Profit Affordable Rental Housing (such replacement Dwelling Units hereinafter referred to as a “Replacement For-Profit Affordable Rental Housing Units”) and Moderate Income Rental Housing (such replacement Dwelling Units hereinafter referred to as a “Replacement Moderate Income Rental Housing Units”) respectively, in the same percentages as set out in this Section and in accordance with the terms of this Agreement and the applicable by-laws of the City and such Replacement For-Profit Affordable Rental Housing Units and Replacement Moderate Income Rental Housing Units will be subject, for the remaining duration of the Term, to the same use restrictions, respectively, as the For-Profit Affordable Rental Housing Units, the Moderate Income Rental Housing Units and the For-Profit Affordable Rental Housing Parcel are pursuant to this Agreement;

- (e) not less than:
 - (i) 35% of the For-Profit Affordable Rental Housing Units; and
 - (ii) 35% of the Moderate Income Rental Housing Units;
 will have two or more bedrooms;
- (f) each of the Moderate Income Rental Housing Units shall not be rented, leased, licenced, used or otherwise permitted to be occupied unless it is rented, leased, licenced, used to or occupied by an Eligible Person and except in accordance with the following conditions:
 - (i) each Moderate Income Rental Housing Unit shall be rented only pursuant to a Tenancy Agreement, which Tenancy Agreement shall include a copy of this Agreement;
 - (ii) each Moderate Income Rental Housing Unit shall be rented for a monthly rent not exceeding the rent permitted to that type of Moderate Income Housing Unit, as described in Section 2.1(p);
 - (iii) each Moderate Income Rental Housing Unit shall be occupied only by an Eligible Person who is occupying such Moderate Income Rental Housing Unit as his or her Principal Residence and such other Occupants of the Eligible Person’s household as specified in the Tenancy Agreement between the Owner and the Eligible Person for the rental thereof;

- (iv) each Moderate Income Rental Housing Unit shall have at least one Occupant per bedroom thereof;
- (v) each Tenancy Agreement shall include:
 - (A) a clause requiring the Tenant and each permitted Occupant of the respective Moderate Income Rental Housing Unit to comply with this Agreement;
 - (B) the names of all Occupants of the respective Moderate Income Rental Housing Unit and a clause prohibiting any person not identified in the Tenancy Agreement from residing at the Moderate Income Rental Housing Unit for more than 60 consecutive days or more than 90 days total in any calendar year, unless the Tenant receives prior written consent from the Owner;
 - (C) subject to any contrary provisions in the *Residential Tenancy Act*, as determined to be contrary by a ruling or decision of any judicial body having jurisdiction, a clause entitling the Owner to terminate the Tenancy Agreement if:
 - I. the respective Moderate Income Rental Housing Unit is occupied by a person or persons other than those persons identified in the Tenancy Agreement for more than 60 consecutive days or more than 90 days total in any calendar year without the prior written consent from the Owner;
 - II. the respective Moderate Income Rental Housing Unit does not have at least one Occupant per bedroom thereof;
 - III. the annual aggregate Income of all Occupants of the respective Moderate Income Rental Housing Unit rise above the applicable maximum amount specified in Section 1.1(k)(ii);
 - IV. the respective Moderate Income Rental Housing Unit remains vacant for six months or longer, cumulatively, within a calendar year, without the prior written consent of the Owner, or ceases to be the Principal Residence of the Tenant, notwithstanding the timely payment of rent; or
 - V. the Tenant subleases the respective Moderate Income Rental Housing Unit or assigns the Tenancy Agreement in whole or in part;

and upon the Owner gaining knowledge of a breach of one of the foregoing provisions of the Tenancy Agreement, the Owner hereby agrees with the City to forthwith provide to the Tenant a notice of termination that will be effective two (2) months, except in respect of Sections 2.1(f)(v)(C)I to 2.1(f)(v)(C)III, in which case the termination will be effective six (6) months, following the date that

the Owner has delivered the notice of termination to the respective Tenant and the Owner shall cause all Occupants of the respective Moderate Income Rental Housing Unit to vacate the respective Moderate Income Rental Housing Unit on or before the effective date of termination of the Tenancy Agreement;

- (D) a clause:
 - I. wherein the Tenant consents to the collection, use and retention by the Owner and disclosure to the City of information, documentation and evidence described in Section 2.1(h); and
 - II. requiring the Tenant to deliver to the Owner the information, documentation and evidence described in Section 2.1(h)(ii) every five (5) years following the date on which the Tenant first occupies the Moderate Income Rental Housing Unit;
- (E) a clause prohibiting the Tenant from assigning its interest in the Tenancy Agreement or subletting the respective Moderate Income Rental Housing Unit; and
- (F) a term that is either on a month-to-month basis or for a fixed term of less than six (6) months;

unless otherwise permitted by the General Manager of Planning, Urban Design and Sustainability in his or her sole discretion;

- (g) if the Owner has terminated a Tenancy Agreement for the reasons specified in Sections 2.1(f)(v)(C)I to 2.1(f)(v)(C)III, the Owner shall offer another For-Profit Affordable Rental Housing Unit for rent to the former Tenant, subject to another For-Profit Affordable Rental Housing Unit being available for rent in the New Building and eligibility of the former Tenant in respect of other Moderate Income Rental Housing Units;
- (h) in connection with Section 2.1(f), throughout the Term, the Owner shall:
 - (i) prior to renting a Moderate Income Rental Housing Unit to a prospective tenant, or upon the change of any Occupants residing within a Moderate Income Rental Housing Unit from the Occupants listed in the Tenancy Agreement, verify, by obtaining all information, documentation or evidence necessary or such other information, documentation or evidence that the General Manager of Planning, Urban Design and Sustainability may deem necessary, that such prospective tenant is an Eligible Person and that there will be at least one Occupant per bedroom for such Moderate Income Rental Housing Unit upon occupancy; and
 - (ii) not less than once every five (5) years after the date on which a Moderate Income Rental Housing Unit was rented to a Tenant, verify, by all information, documentation or evidence necessary or such other

information, documentation or evidence that the General Manager of Planning, Urban Design and Sustainability may deem necessary, that such prospective tenant is an Eligible Person and that such Moderate Income Rental Housing Unit continues to have at least one Occupant per bedroom;

- (i) the Owner will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any For-Profit Affordable Rental Housing Unit for a term of less than one month at a time;
- (j) 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 For-Profit Affordable Rental Housing Unit to be sold or otherwise transferred unless title to every one of the For-Profit Affordable Rental Housing Unit is sold or otherwise transferred together and as a block to the same legal and beneficial owner, as applicable, and subject to Section 9.9;
- (k) the Owner will not suffer, cause or permit, the Lands or the New 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, subject to Article 7;
- (l) any sale of any For-Profit Affordable Rental Housing Unit in contravention of the covenant in Section 2.1(j), and any subdivision of the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(k), 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;
- (m) the Owner will:
 - (i) prior to the Discharge Date, keep and maintain the New Building and all parts thereof; and
 - (ii) after to the Discharge Date, keep and maintain the For-Profit Affordable Rental Housing Units and the For-Profit Affordable Rental Housing Parcel and all parts thereof,

in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings;
- (n) if:
 - (i) prior to the Discharge Date, the New Building or any part thereof, is damaged; and
 - (ii) after the Discharge Date, the For-Profit Affordable Rental Housing Units or any part thereof are damaged,

it 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 reasonable wear and tear excepted;

- (o) the Owner will insure, or cause to be insured:
- (i) prior to the Discharge Date, the New Building; and
 - (ii) after the Discharge Date, the For-Profit Affordable Rental Housing Units and For-Profit Affordable Rental Housing Parcel;

to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands;

- (p) the average size of the For-Profit Affordable Rental Housing Units will be at or below the following sizes:

<u>UNIT TYPE</u>	<u>AVERAGE SIZE (APARTMENT)</u>	<u>AVERAGE SIZE (TOWNHOUSE)</u>
Studio	42 square metres	N/A
1 Bedroom	56 square metres	56 square metres
2 Bedrooms	77 square metres	90 square metres
3 Bedrooms	97 square metres	112 square metres
4 Bedrooms	N/A	125 square metres

except that the floor area used for stairways within the townhouse units of two or more storeys is excluded from the calculation of maximum unit size;

- (q) with respect to the Moderate Income Rental Housing Units:
- (i) the average initial starting monthly rents for each unit type will be at or below the following amounts:

<u>UNIT TYPE</u>	<u>AVERAGE MONTHLY STARTING RENTS</u>
Studio	\$950
1 Bedroom	\$1,200
2 Bedrooms	\$1,600
3 Bedrooms	\$2,000

- (ii) the rents to be charged by the Owner to the first Tenants of each of the Moderate Income Housing Rental Units in the New Building following

issuance of the Occupancy Permit are as set forth in the rent roll attached hereto as Schedule A and as confirmed by delivery to the City pursuant to Section 4.1(a)(ii), save and except that, subject to the terms of this Agreement, including, without limitation, that not less than twenty (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing, the Owner may substitute and re-assign the designation of specific Dwelling Units in the New Building as Moderate Income Housing Rental Units, on a one-for-one basis, with other Dwelling Units in the New Building of the same unit type that are equal to or greater in size to the Dwelling Unit being substituted, such that the unit type mix and number of Moderate Income Housing Rental Units in the New Building remain unchanged;

- (iii) the Owner shall not increase the monthly rents for any of the Moderate Income Rental Housing Units, except for annual increases in monthly rent following the issuance of an Occupancy Permit by an amount not to exceed the annual allowable increase in rent permitted under Section 22 of the *Residential Tenancy Regulation* (as may be amended, replaced or re-enacted) and for clarity, the Owner shall not increase the monthly rent for a Moderate Income Rental Housing Unit in any other circumstance, including but not limited to, any change in tenancy or occupancy of a Moderate Income Rental Housing Unit.

ARTICLE 3 DEVELOPMENT PERMIT RESTRICTION ON THE LANDS

- 3.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:
 - (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Development Permit, and will take no action, directly or indirectly, to compel the issuance of any Development Permit, until such time as the Owner has delivered a rent roll to, and to the satisfaction of, the General Manager of Planning, Urban Design and Sustainability confirming the rents proposed to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit, and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Moderate Income Rental Housing Units when the Development Permit is issued; and
 - (ii) the City will be under no obligation to issue any Development Permit until such time as the Owner has complied with Section 3.1(a)(i); and
 - (b) 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 a Development Permit until there is compliance with the provisions of this Article 3.

**ARTICLE 4
OCCUPANCY RESTRICTION ON THE LANDS**

- 4.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:
- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) 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 until such time as the Owner has delivered, to the satisfaction of the General Manager of Planning, Urban Design and Sustainability:
 - (A) a final rent roll confirming the rents to be charged to the first tenants of the Moderate Income Rental 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 shall comply with those applicable to the Moderate Income Rental Housing Units; and
 - (B) proof of the insurance, consistent with the requirements of Section 2.1(o), is in force and effect, in form and substance satisfactory to the City;
 - (ii) 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 4.1(a)(i);
 - (b) 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 4.

**ARTICLE 5
RECORD KEEPING**

- 5.1 The Owner will keep accurate records pertaining to the use, occupancy and rental rates charged of/for the Moderate Income Rental Housing Units, such records to be to the satisfaction of the General Manager of Planning, Urban Design and Sustainability. The Owner will:
- (a) on each anniversary of the date of issuance of the first Occupancy Permit for any portion of the For-Profit Affordable Rental Housing Parcel or at the request of the City, provide an updated Moderate Income Rental Housing Report to the General Manager of Planning, Urban Design and Sustainability;
 - (b) within ninety (90) days of:

- (i) a change in any Occupant of a Moderate Income Rental Housing Unit;
 - (ii) the date that is the fifth anniversary of the date on which a Moderate Income Rental Housing Unit was rented to a Tenant and every five (5) years thereafter; and
 - (iii) at the request of the General Manager of Planning, Urban Design and Sustainability, from time to time,
- complete and deliver to the City a Statement of Moderate Income Rental Housing Unit Eligibility in respect of such Moderate Income Rental Housing Unit;
- (c) at the request of the General Manager of Planning, Urban Design and Sustainability, from time to time:
 - (i) make such records available for audit, inspection and copying by City staff, subject to applicable restrictions in any tenancy, privacy and other laws which place limitations on such disclosure; and
 - (ii) provide evidence of the insurance required to be taken out pursuant to Section 2.1(o); and
 - (d) comply with the *Personal Information Protection Act* in collecting, using, retaining and disclosing the information of any person, Tenant or Occupant pursuant to its obligations under this Agreement and any Tenancy Agreement.

ARTICLE 6 RELEASE AND INDEMNITY

6.1 Release and Indemnity. Subject to Section 6.2, the Owner hereby:

- (a) will not make any claims against the City or City Personnel and releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner in connection with this Agreement, including without limitation:
 - (i) by reason of the City or City Personnel:
 - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - B. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement
 - C. withholding any permit pursuant to this Agreement; or
 - D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement 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, except in each case to the extent attributable to the wrongful intentional acts 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 or which could not have been sustained "but for" any of the following:

- (i) this Agreement;

- (ii) the City or City Personnel:

- A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
- B. withholding any permit pursuant to this Agreement;
- C. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement; or
- D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or

- (iii) 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

- (iv) any default in the due observance and performance of the obligations and responsibilities of the Owner under 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.

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(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 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 SUBDIVISION OF THE LANDS

- 7.1 By Air Space Subdivision Plan. Notwithstanding Section 2.1(k):

- (a) subject to compliance by the Owner with all applicable requirements of the City's Approving Officer and the City's elected Council, this Agreement and all applicable laws and by-laws, the City will not unreasonably withhold its consent to a subdivision of the Lands and the New Building by the deposit of an air space subdivision plan, provided that all the For-Profit Affordable Rental Housing Units

will thereafter be contained within a single air space parcel (the "For-Profit Affordable Rental Housing Parcel"); and

- (b) following such a subdivision and the issuance of a final occupancy permit for the For-Profit Affordable Rental Housing Parcel, the Owner may apply to the City for a partial discharge of this Agreement (the "Discharge") with respect to any parcel other than the For-Profit Affordable Rental Housing Parcel, and the City will on request of the Owner execute and deliver a registrable Discharge in respect of such other parcel(s) provided, that:
- (i) the Director of Legal Services is satisfied that the Discharge will not unreasonably alter, restrict or limit the City's rights and the Owner's agreements and obligations in respect of the For-Profit Affordable Rental Housing Units, including, for clarity, the Moderate Income Rental Housing Units or in respect of the For-Profit Affordable Rental Housing Parcel, pursuant to this Agreement;
 - (ii) the Discharge will be in form and substance acceptable to the Director of Legal Services and will be prepared by the Owner at its cost;
 - (iii) the City will have a reasonable amount of time to execute and return the Discharge; and
 - (iv) the preparation and registration of the Discharge will be without cost to the City.

ARTICLE 8 NOTICES

- 8.1 All notices, demands or requests of any kind which one party may be required or permitted to give to the other in connection with this Agreement, will be in writing and will be given by registered mail or personal delivery, addressed as set forth below. Any such notice, demand or request will be deemed given:
- (a) if made by registered mail, on the earlier of the day receipt is acknowledged by the addressee or the third day after it was mailed, except when there is a postal service disruption during such period, in which case delivery will be deemed to be completed upon actual delivery of the notice, demand or request; and
 - (b) if personally delivered, on the date when delivered.

If to the City, addressed to:

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

Attention: General Manager of Planning, Urban Design and Sustainability with a concurrent copy to the Director of Legal Services

If to the Owner, addressed to:

3680 East Hastings Holdings Corp.
 #300 - 1030 West Georgia Street
 Vancouver, British Columbia
 V6E 2Y3

Attention: Tim Grant

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 9 MISCELLANEOUS

- 9.1 Agreement Runs With the Lands. The covenants and agreements set forth herein on the part of the Owner will be covenants the burden of which will run with and will bind the Lands and will attach thereto subject to Article 7. Upon the sale or transfer of any legal or beneficial interest in the Lands and/or the New Building or any part thereof in accordance with the provisions of Section 9.9, 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.
- 9.2 Agreement to be a First Charge. The Owner agrees to cause, at its sole cost and expense, the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:
- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
 - (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of any rezoning or any Development Permit; and
 - (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.
- 9.3 Owner Operating on Behalf of the City. The City has required that the Owner enter into this Agreement to satisfy the Housing Condition, as described in Recital C and notwithstanding that the Owner is the owner of the Lands, the Owner and the City acknowledge and agree that for the duration of the Term, the Owner shall operate (within the meaning of Section 49.1(1)(a) of the *Residential Tenancy Act*) the Moderate Income Rental Housing Units on behalf of the City in accordance with the terms and conditions of this Agreement and provided always that nothing contained in this

Agreement nor any acts of the Owner or the City shall be deemed to create any agency, fiduciary, trust, or similar relationship between the Owner and the City.

- 9.4 Application of Residential Tenancy Act to Termination Notice. The City agrees that, in the event the Owner delivers a termination notice to a Tenant pursuant to Section 2.1(f), and such termination notice is found to be ineffective by a ruling or decision of any judicial body having jurisdiction in connection with the *Residential Tenancy Act*, the Owner shall not be in breach of its obligation to ensure that:
- (a) not less than twenty (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing, as set out in Section 2.1(d) as a result of such termination notice being ineffective and for clarity, the Moderate Income Rental Housing Unit to which such ineffective termination notice relates shall continue to count towards the aforementioned twenty (20) percent of the residential floor areas, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant; and
 - (b) the Moderate Income Rental Housing Unit to which such ineffective termination notice relates shall not be rented, leased, licenced, used or otherwise permitted to be occupied unless it is rented, leased, licenced, used to or occupied by an Eligible Person, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant.

For additional certainty, the Owner shall not have liability to the City under this Agreement (or otherwise) with respect to such termination notice being deemed ineffective, and shall not be required to perform any additional acts in connection therewith.

- 9.5 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.
- 9.6 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.
- 9.7 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.
- 9.8 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.

- 9.9 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*.
- 9.10 Further Amendments to the Moderate Income Rental Housing Pilot Program. Subject to approval by City Council and the General Manager of Planning, Urban Design and Sustainability, at their sole discretion and at the sole cost and expense of the Owner, the Owner and the City will execute such further and other documents and instruments (registrable or otherwise) and do such further and other acts as may be necessary to implement and carry out and give effect to future amendments and revisions to the Moderate Income Rental Housing Pilot Program.
- 9.11 Sale of Lands and New Building or Part Thereof. Prior to the sale or transfer of any legal or beneficial interest (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), and subject always to Sections 2.1(j) and 2.1(k):
- (a) prior to the Discharge Date, the Owner of the Lands and the New Building; or
 - (b) after the Discharge Date, the Owner of the For-Profit Affordable Rental Housing Parcel;

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 such Owner under this Agreement. The provisions in this Section 9.9 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).

- 9.12 Owner's Representations. The Owner represents and warrants to and covenants and agrees with the City that:
- (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all legal 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 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.
- 9.13 Liability. Notwithstanding anything to the contrary contained herein, the Owner shall not be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Owner ceases to have any further interest in the Lands.
- 9.14 Enurement. This Agreement will enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement will enure to the benefit of and be binding upon the Owner and its successors and assigns.

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

Schedule A

B. RENT ROLL - Moderate Income Rental Units

Unit #	Bedroom Type (select from drop-down menu)	Starting Monthly Rental Rate (\$)	Unit Size (Net area)	
			<input type="checkbox"/> m ²	<input checked="" type="checkbox"/> ft ²
103	3-bed	2000		892
201	2-bed	1600		768
202	2-bed	1600		760
203	Studio	950		327
204	2-bed	1600		717
208	3-bed	2000		913
209	1-bed	1200		506
301	2-bed	1600		766
303	Studio	950		327
304	2-bed	1600		691
308	3-bed	2000		913
309	1-bed	1200		506
401	2-bed	1600		767
403	Studio	950		327
404	1-bed	1200		591
405	Studio	950		323
410	1-bed	1200		439
503	Studio	950		327
504	1-bed	1200		596
505	Studio	950		323
510	1-bed	1200		439
604	Studio	950		323
605	Studio	950		406
610	1-bed	1200		439

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA6663169 and the Assignment of Rents registered under number CA6663170;
- (b) "Existing Chargeholder" means HSBC BANK CANADA;
- (c) "New Charges" means the Housing Agreement and Section 219 Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

For \$10 and other good and valuable consideration, the receipt and sufficiency of which the Existing Chargeholder acknowledges, the Existing Chargeholder:

- (e) consents to the Owner granting the New Charges to the City; and
- (f) 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

**Authorization to enter into a Housing Agreement
Re: 6137 Cambie Street**

After the public hearings on September 19 and 21, 2017, Council approved in principle the land owner's application to rezone the above noted property from CD-1 (Comprehensive Development) District (12) By-law No. 3907 to a new 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 Planning, Urban Design and Sustainability 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
October 6, 2020

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 designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.



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

MIKE WALKER, Miller Thomson LLP
400 - 725 Granville Street

Tel: 604.687.2242
File No. 0244809.0001
VCPC 46242563 & 45943610

Vancouver BC V7Y 1G5

Deduct LTSA Fees? Yes

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

009-300-970 LOT 2 OF LOT B BLOCK 1008 DISTRICT LOT 526 PLAN 10803

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):
TRUSTEES OF THE CONGREGATION OF THE CHINESE PRESBYTERIAN CHURCH, SEE CA7438694

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)



Execution Date		
Y	M	D
20	06	22

Transferor(s) Signature(s)

BILLY LO
Trustee of the Congregation of the Chinese Presbyterian Church

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.

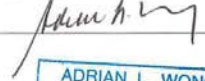
LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED


Officer Signature(s)


Execution Date

Transferor / Borrower / Party Signature(s)



 ADRIAN L. WONG
 Notary Public
 128 East Pender Street
 Vancouver, B. C. V6A 1T3


Y	M	D
20	06	21


 KEN SHUEN
 Trustee of the Congregation of the
 Chinese Presbyterian Church


 ADRIAN L. WONG
 Notary Public
 128 East Pender Street
 Vancouver, B. C. V6A 1T3

Y	M	D
20	06	23


 SUSIE YUEN
 Trustee of the Congregation of the
 Chinese Presbyterian Church


 ADRIAN L. WONG
 Notary Public
 128 East Pender Street
 Vancouver, B. C. V6A 1T3

Y	M	D
20	06	20


 ALEX WONG
 Trustee of the Congregation of the
 Chinese Presbyterian Church

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)



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

Execution Date		
Y	M	D
20	06	25
20		

Transferor / Borrower / Party Signature(s)



ADRIAN WONG
Trustee of the Congregation of the
Chinese Presbyterian Church

By the Transferee:

CITY OF VANCOUVER
by its authorized signatory(ies):

Print Name: _____

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.

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
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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TERMS OF INSTRUMENT - PART 2
HOUSING AGREEMENT AND BUILDING USE COVENANT
FOR SECURED MARKET RENTAL HOUSING
6137 CAMBIE STREET

WHEREAS:

- A. Capitalized terms used in this Agreement will have the respective meanings ascribed to them in Section 1.1, unless otherwise defined herein or the context otherwise requires;
- B. It is understood and agreed that this Agreement will be read as follows:
 - (i) the Transferors, BILLY LO, KEN SHUEN, SUSIE YUEN, ALEX WONG and ADRIAN WONG, TRUSTEES OF THE CHINESE PRESBYTERIAN CHURCH, as more particularly defined in Section 1.1, are collectively called the "Owner"; 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;
- C. The Owner is the registered and beneficial owner of the Lands;
- D. The Owner made an application to rezone the Lands (the "Rezoning Application") from CD-1 (Comprehensive Development) District (12) By-law No. 3907 to a new CD-1 (Comprehensive Development) District to permit the development of a seven-storey mixed-use building with a replacement church on levels 1 to 3, a private daycare on levels 2 and 3 and twenty (20) market rental housing units on levels 4 to 7, all over 2 levels of underground parking, and after public hearing the City approved the Rezoning Application in principle, subject to a number of conditions including that the Owner make arrangements to the satisfaction of the General Manager of Community Services and the Director of Legal Services to enter into a Housing Agreement pursuant to Section 565.2 of the Vancouver Charter securing all residential units in the New Building as market rental units for the longer of 60 years and the life of the New Building; and
- E. The Owner and the City are 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 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 New 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 Permit" means any building permit issued by the City authorizing the building of a New Building as contemplated by the Rezoning By-law and the Development Permit;
- (c) "City" and "City of Vancouver" have the meaning ascribed to those terms in Recital B(ii);
- (d) "City Manager" means the chief administrator from time to time of the City and 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 D and approved by the Development Permit;
- (h) "Development Permit" means any development permit issued by the City at any time following the date this Agreement is fully executed by the parties, authorizing the Development on the Lands contemplated by the Rezoning By-law;
- (i) "Director of Legal Services" means the chief administrator from time to time of the City's Legal Services Department and her/his successors in function and their respective nominees;
- (j) "General Manager of Community Services" means the chief administrator from time to time of the City's Community Services Department and his/her successors in function and their respective nominees;
- (k) "Housing Unit" means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (l) "Land Title Act" means the *Land Title Act*, R.S.B.C. 1996, c. 250;
- (m) "Lands" means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the Form C - General Instrument - Part 1, and includes any parcels into which such land is consolidated or further subdivided;
- (n) "Losses" means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, judgements, builders liens, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;

- (o) "New Building" means any new building or structure to be built on the Lands as contemplated by the Rezoning By-law and 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 Rezoning By-law and the Development Permit;
- (p) "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 issued after the Commencement Date;
- (q) "Owner" means the registered and beneficial owner of the Lands as of the Commencement Date, namely BILLY LO, KEN SHUEN, SUSIE YUEN, ALEX WONG and ADRIAN WONG, Trustees of the Chinese Presbyterian Church, and all of their 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*, S.B.C. 2002, c.57, then a Related Person is:
 - (A) an officer, director or shareholder of such Owner or of another entity which is a shareholder of such Owner; or
 - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder; 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 arm's length, for use as rental accommodation on a month-to-month basis or longer 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 Application" has the meaning ascribed to that term in Recital D;

- (x) "Rezoning By-law" means the CD-1 by-law enacted upon satisfaction of the prior to conditions imposed by the City following, and as a result of, the Rezoning Application;
 - (y) "Term" means the term of this Agreement, which will commence on the Commencement Date and will end on the later of:
 - (i) the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building; or
 - (ii) the date as of which the New Building is demolished or substantially destroyed;
 - (z) "Vancouver" has the meaning ascribed to that term in Recital B(ii); and
 - (aa) "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 Commencement Date and to subsequent amendments to or replacements of the statute or regulations.
 - (f) Legislation. Any reference to a statute or by-law includes and is a reference to such statute or by-law and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any statute, by-law and regulations that may be passed which have the effect of supplementing or superseding such statutes, by-laws and regulations.

- (g) Time. Time will be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time will be local Vancouver, British Columbia time.

**ARTICLE 2
RESTRICTIONS ON USE OF LANDS AND SUBDIVISION**

- 2.1 The Owner covenants and agrees with the City, in respect of the use of the Lands and the construction and use of the New Building, 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) 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 New Building to contain twenty (20) Housing Units on levels 4 to 7 and related amenity and parking spaces, in accordance with this Agreement, the conditions of enactment of the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies, all to the satisfaction of the City;
 - (c) 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") in accordance with the terms of this Agreement;
 - (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 Rental Housing Units, as applicable) is sold or otherwise transferred together and as a block to the same owner, and subject further to Section 8.9;
 - (f) throughout the Term, it will not suffer, cause or permit, the Lands or the New 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 New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(f), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;

- (h) throughout the Term, it will keep and maintain the New 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 Units, 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;
- (i) throughout the Term, it will insure, or cause to be insured, the New Building to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands;
- (j) in the event of the substantial or complete destruction of the New Building prior to the 60 year anniversary of the issuance of the final Occupancy Permit, it will promptly take all steps reasonably necessary to enable it to build a replacement building or buildings on the Lands, which building(s) (together with any remaining undestroyed or undemolished portion of the New Building building) will also contain not less than the same number and type of replacement Housing Units as the New Building formerly contained, unless the City then otherwise agrees in its absolute and unfettered discretion, which replacement Housing Units will also be used only for the purpose of providing Rental Housing (each such replacement Housing Unit, referred to as a "Replacement Rental Housing Unit"), for the duration of the Term in accordance with the terms of this Agreement and the applicable by-laws of the City.

**ARTICLE 3
SUBDIVISION OF THE LANDS AND THE NEW BUILDING**

- 3.1 Notwithstanding Section 2.1(f) Error! Reference source not found.:
 - (a) subject to compliance by the Owner with all applicable requirements of the City's Approving Officer and the City's elected Council, this Agreement and all applicable laws and by-laws, the City will not unreasonably withhold its consent to a subdivision of the Lands by the deposit of an air space subdivision plan, to enable:
 - (i) all of the Rental Housing Units to be contained within one air space parcel (the "Rental Housing Units Air Space Parcel");
 - (ii) other components of the Development to be contained within one or more other air space parcel(s) or a remainder parcel;
 - (b) following such a subdivision and the issuance of a final occupancy permit for the Rental Housing Units Air Space Parcel, the Owner may apply to the City for a partial discharge of this Agreement with respect to any legal parcel other than the Rental Housing Units Air Space Parcel, and the City will on request of the Owner execute and deliver a registrable discharge of this Agreement in respect of such other parcel(s) provided, that:

- (i) the Director of Legal Services is satisfied that such discharge will not unreasonably alter, restrict or limit the City's rights and the Owner's agreements and obligations in respect of the Rental Housing Units or in respect of the Rental Housing Units Air Space Parcel pursuant to this Agreement;
 - (ii) any such discharge will be in form and substance acceptable to the Director of Legal Services and will be prepared by the Owner at its cost;
 - (iii) the City will have a reasonable amount of time to execute and return any such discharge; and
 - (iv) the preparation and registration of any such discharge will be without cost to the City.
- 3.2 Following such subdivision and partial discharge, this Agreement will be read and applied so that the obligations herein will apply only to any parcel in which Rental Housing Units are contained.

**ARTICLE 4
OCCUPANCY RESTRICTION**

- 4.1 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 until such time as the Owner has delivered, to the satisfaction of the General Manager of Community Services, in form and substance satisfactory to the General Manager of Community Services, proof that the insurance, consistent with the requirements of Section 2.1(i), is in force and effect;
 - (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 4.1(a); and
 - (c) 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 4.

**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 such 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. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New 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, *Vancouver Charter* Section 562.2 housing agreement 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; and
- (c) 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 6.1(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 6.1(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 6.1(b); and

- (c) Regardless of whether the claim is being defended under Section 6.1(a) or Section 6.1(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, will be in writing and will be given by registered mail or personal delivery, addressed as set forth below. Any such notice, demand or request will be deemed given:
- (a) if made by registered mail, on the earlier of the day receipt is acknowledged by the addressee or the third day after it was mailed, except when there is a postal

service disruption during such period, in which case delivery will be deemed to be completed upon actual delivery of the notice, demand or request; and

- (b) if personally delivered, on the date when delivered.

If to the City, addressed to:

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

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

If to the Owner, addressed to:

Trustees of the Chinese Presbyterian Church
6137 Cambie Street
Vancouver, British Columbia
V5Z 3B2

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.
- 8.2 Enurement. This Agreement will enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement will enure to the benefit of and be binding upon the Owner and its successors and assigns.
- 8.3 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.
- 8.4 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.

- 8.5 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.
- 8.6 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.
- 8.7 Priority of Registration. The Owner agrees to cause, at its sole cost and expense, the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:
- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
 - (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of any zoning or any Development Permit; and
 - (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.
- 8.8 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*.
- 8.9 Sale or Transfer of Lands or New Building. Prior to the sale or transfer of any legal or beneficial interest in the Lands and/or the New 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 8.9 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).

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

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

8.11 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.

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

END OF DOCUMENT

EXPLANATION

A By-law to amend Zoning and Development By-law No. 3575 to rezone an area from RS-1 to RM-8A

Following the Public Hearing on October 1, 2019, Council resolved to rezone 435-475 West 28th Avenue from RS-1 (One-Family Dwelling) District to RM-8A (Multiple Dwelling) District to permit a townhouse development with a floor space ratio (FSR) up to 1.2. The Director of Legal Services, the General Manager of Planning, Urban Design and Sustainability, and the General Manager of Engineering 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
October 6, 2020

435-475 West 28th Avenue

BY-LAW NO.

**A By-law to amend
Zoning and Development By-law No. 3575
to rezone an area from RS-1 to RM-8A**

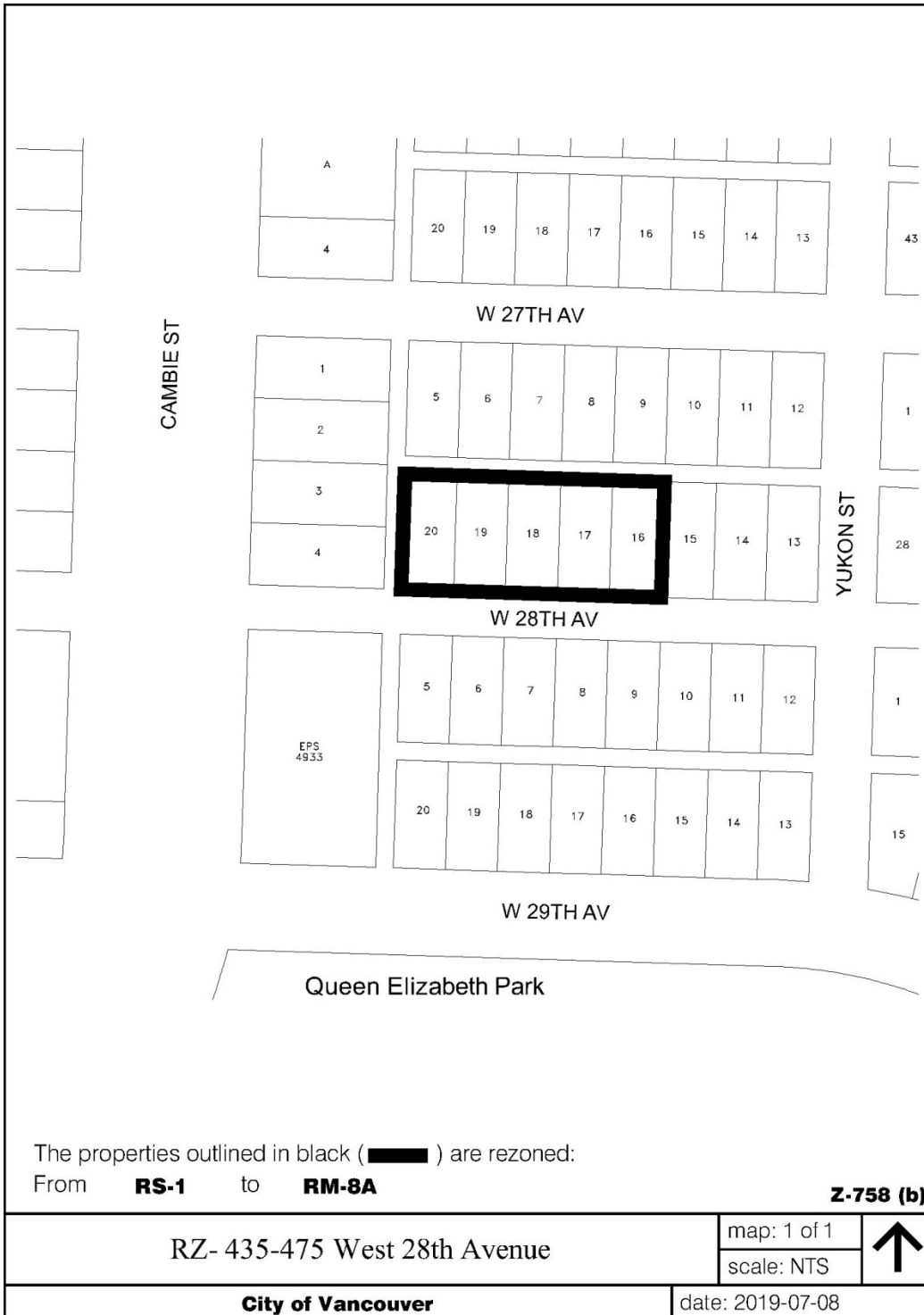
1. This By-law amends the indicated provisions of the Zoning and Development By-law No. 3575.
2. This by-law amends the Zoning District Plan attached as Schedule D to By-law No. 3575, and amends or substitutes the boundaries and districts shown on it, according to the amendments, substitutions, explanatory legends, notations, and references shown on the plan marginally numbered Z-758 (b) attached as Schedule A to this by-law, and incorporates Schedule A into Schedule D of By-law No. 3575.
3. The area shown within the heavy black outline on Schedule A is rezoned and moved from the RS-1 District Schedule to the RM-8A District Schedule.
4. 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.
5. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2020

Mayor

Acting City Clerk

Schedule A



The properties outlined in black () are rezoned:
 From **RS-1** to **RM-8A**

Z-758 (b)

RZ- 435-475 West 28th Avenue

map: 1 of 1
 scale: NTS



City of Vancouver

date: 2019-07-08

EXPLANATION**A By-law to amend
CD-1 (643) By-law No. 11661**

Following the Public Hearing on July 21, 2020, Council resolved to amend CD-1 (643) for 1335 Howe Street to increase the permitted floor space ratio (FSR) from 12.12 to 12.29 to allow for the conversion of previously excluded in-suite storage floor area into regular residential floor area. The Director of Planning has advised that that all prior to conditions have been met, and enactment of the attached By-law will implement Council's resolution.

Director of Legal Services
October 6, 2020

1335 Howe Street

BY-LAW NO.

**A By-law to amend
CD-1 (643) By-law No. 11661**

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

1. This By-law amends the indicated provisions of By-law No. 11661.
2. In section 4.2, Council:
 - (a) strikes out “12.12” and substitutes “12.29”; and
 - (b) strikes out “1,931.7 m²” and substitutes “1,924.0 m²”.
3. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.
4. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2020

Mayor

Acting City Clerk

EXPLANATION**A By-law to amend the Sign By-law
Re: 686-688 East 22nd Avenue, 3811-3891 Fraser Street
and 679 East 23rd Avenue**

After the Public Hearing on July 9, 2019 which reconvened on July 11, 2019, Council resolved to amend the Sign By-law for this site. Enactment of the attached By-law will implement Council's resolution.

Director of Legal Services
October 6, 2020

686-688 East 22nd Avenue,
3811-3891 Fraser Street
and 679 East 23rd Avenue

BY-LAW NO. _____

A By-law to amend Sign By-law No.11879

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

1. This By-law amends the indicated provisions of Sign By-law No. 11879.
2. Council amends Schedule A (CD-1 Zoning Districts regulated by Part 9) by adding the following:

“

686-688 East 22nd Avenue, 3811-3891 Fraser Street and 679 East 23rd Avenue	CD-1(745)	12726	C-2
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”

3. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.
4. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2020

Mayor

Acting City Clerk

EXPLANATION**A By-law to amend the Noise Control By-law
Re: 686-688 East 22nd Avenue, 3811-3891 Fraser Street
and 679 East 23rd Avenue**

After the Public Hearing on July 9, 2019 which reconvened on July 11, 2019, Council resolved to amend the Noise Control By-law regarding this site. Enactment of the attached By-law will implement Council's resolution.

Director of Legal Services
October 6, 2020

EXPLANATION**A By-law to amend the Sign By-law
Re: 3429-3469 Fraser Street**

After the Public Hearing on October 1, 2019, Council resolved to amend the Sign By-law for this site. Enactment of the attached By-law will implement Council's resolution.

Director of Legal Services
October 6, 2020

3429-3469 Fraser Street

BY-LAW NO. _____

A By-law to amend Sign By-law No.11879

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

1. This By-law amends the indicated provisions of Sign By-law No. 11879.
2. Council amends Schedule A (CD-1 Zoning Districts regulated by Part 9) by adding the following:

“

3429-3469 Fraser Street	CD-1(746)	12744	C-2
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”.

3. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.
4. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2020

Mayor

Acting City Clerk

EXPLANATION

A By-law to amend the Noise Control By-law Re: 3429-3469 Fraser Street

After the Public Hearing on October 1, 2019, Council resolved to amend the Noise Control By-law regarding this site. Enactment of the attached By-law will implement Council's resolution.

Director of Legal Services
October 6, 2020

EXPLANATION**Vehicles for Hire By-law amending By-law
Re: Impoundment Towing Rates and Release and Storage Fees**

The attached By-law will implement Council's resolution of September 15, 2020, to amend the Vehicles for Hire By-law regarding impoundment towing rates and release and storage fees.

Director of Legal Services
October 6, 2020

Schedule "C"

Rates and fees for private impounded vehicles (towing fees will have GST added)

1. Towing fee

- a. Vehicle with a gross vehicle weight of up to 3,000 kg or less
 - i. Regular tow.....\$77.46
 - Plus, for a towing distance greater than 6.0 km up to 16 km..... \$2.64 per km
 - Plus, for a towing distance greater than 16 km up to 32 km.....\$2.23 per km
 - Plus, for a towing distance greater than 32 km.....\$1.93 per km
 - Plus fuel surcharge of 13.5% on the above rates
 - Plus, for a tow that requires a dolly\$25
 - Plus, for a tow in a multi-level parkade\$10
- b. Vehicle with a gross vehicle weight of between 3,000 kg to 6,300 kg
 - i. Regular tow.....\$81.80
 - Plus, for a towing distance greater than 6.0 km up to 16 km.....\$3.05 per km
 - Plus, for a towing distance greater than 16 km up to 32 km.....\$2.79 per km
 - Plus, for a towing distance greater than 32 km..... \$2.28 per km
 - Plus fuel surcharge of 13.5% on the above rates
 - Plus, for a tow that requires a dolly\$25
 - Plus, for a tow in a multi-level parkade.....\$10
- c. Vehicle with a gross vehicle weight of between 6,300 kg to 9,072 kg
 - i. Regular tow.....\$129.67
 - Plus, for a towing distance greater than 6.0 km up to 16 km.....\$3.72 per km
 - Plus, for a towing distance greater than 16 km up to 32 km.....\$3.15 per km
 - Plus, for a towing distance greater than 32 km.....\$2.53 per km
 - Plus fuel surcharge of 13.5% on the above rates

- d. Vehicle with a gross vehicle weight greater than 9,072 kg
 - i. Regular tow.....\$172.47
 - Plus, for a towing distance greater than 6.0 km up to 16 km.....\$7.83 per km
 - Plus, for a towing distance greater than 16 km up to 32 km.....\$6.71 per km
 - Plus, for a towing distance greater than 32 km..... \$4.82 per km
 - Plus fuel surcharge of 13.5% on the above rates

2. Release (unhooking fee)

Where towing service has commenced hook-up and the owner or person in charge requests delivery of the vehicle before it is towed.

- a. Vehicle with a gross vehicle weight of up to 3,000 kg or less
 - i. Regular tow..... \$38.73
 - Plus fuel surcharge of 13.5% on the above rate
 - ii. Tow with dolly.....\$56.46
 - iii. Tow in multi-level parkade\$48.96
 - iv. Tow with dolly in multi-level parkade.....\$61.46
- b. Vehicle with a gross vehicle weight of between 3,000 kg to 6,300 kg
 - i. Regular tow.....\$40.90
 - Plus fuel surcharge of 13.5% on the above rates
 - ii. Tow with dolly\$58.92
 - iii. Tow in multi-level parkade\$51.42
 - iv. Tow with dolly in multi-level parkade.....\$63.92
- c. Vehicle with a gross vehicle weight of between 6,300 kg to 9,072 kg
 - i. Regular tow.....\$64.84
 - Plus fuel surcharge of 13.5% on the above rate
- d. Vehicle with a gross vehicle weight greater than 9,072 kg
 - i. Regular tow.....\$86.23
 - Plus fuel surcharge of 13.5% on the above rate

3. Storage fee

The daily fee for storage of a vehicle at a storage facility before it is released to its owner

Length of vehicle

i.	Up to 20' (6.1m)	\$23.28
ii.	> 20' (6.1m) to 35' (10.7m).....	\$46.56
iii.	> 35' (10.7m)	\$69.84
iv.	Motorcycles.....	\$11.64