

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 138 Main Street**

On April 8, 2020, the Development Permit Board approved in principle a development on the above noted property, subject to, among other things, a Housing Agreement to be entered into by the City and the land owner, on terms satisfactory to the Director of Legal Services and the General Manager of Arts, Culture and Community Services, prior to the issuance of a Development Permit.

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

Director of Legal Services
February 23, 2021

BY-LAW NO. ____

**A By-law to enact a Housing Agreement
for 138 Main 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:

031-121-381

Lot A District Lot 196 Block 4 Group 1 New Westminster
District Plan EPP101555

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.

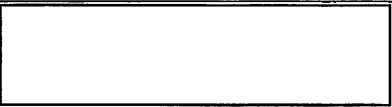
ENACTED by Council this day of , 2021

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 168.41(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)
PLL R Lawyers
Barristers & Solicitors
Suite 500 North Tower 5811 Cooney Road
Richmond BC V6X 3M1
Telephone: (604) 276-2765
File No. 107681

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]
031-121-381 LOT A DISTRICT LOT 196 BLOCK 4 GROUP 1 NEW WESTMINSTER DISTRICT
PLAN EPP101555
STC? YES

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

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

5. TRANSFEROR(S):
SEE SCHEDULE

6. TRANSFEREE(S): (including postal address(es) and postal code(s))
CITY OF VANCOUVER
453 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)

Jasmine R. Hindy
Barrister and Solicitor
Suite 500 North Tower
5811 Cooney Road
Richmond, BC V6X 3M1

Execution Date

Y	M	D
21	02	10

Transferor(s) Signature(s)

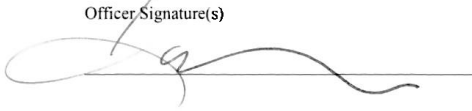
ANHART COMMUNITY HOUSING
SOCETY by its authorized
signatory(ies):
Print Name:
GORDON KEITH WIESE
DIRECTOR
Print Name:

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 D**

EXECUTIONS CONTINUED

Officer Signature(s)



Katie M. McGowan
A Commissioner for Taking
Affidavits for British Columbia
Vancouver City Savings Credit Union
6th Floor, 183 Terminal Avenue
Vancouver, B.C. V6A 4G2
Phone: 604-877-6565
Expiry Date: June 30, 2022
As to ALL signatures

Execution Date

Y	M	D
21	02	12

Transferor / Borrower / Party Signature(s)

VANCOUVER CITY SAVINGS CREDIT UNION, by its authorized signatory(ies):



Print Name:

Colton Cooke
Loan Security Coordinator
Community Business & Investment

Print Name:

CANADA MORTGAGE AND HOUSING CORPORATION, by its authorized signatory(ies):

Print Name:

Print Name:

CITY OF VANCOUVER, by its authorized signatory:

Print Name:

OFFICER CERTIFICATION:

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

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y	M	D
21	02	18

VANCOUVER CITY SAVINGS CREDIT UNION, by its authorized signatory(ies):


Print Name: _____

Print Name: _____



Stefan Cyr
Counsel
79 LaSalle Road
Ottawa, Ont. K1A 0P7

CANADA MORTGAGE AND HOUSING CORPORATION, by its authorized signatory(ies):


Print Name: SIMON RIBANS


Print Name: Dimitrios Langis
Counsel

CITY OF VANCOUVER, by its authorized signatory:

Print Name: _____

OFFICER CERTIFICATION:

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

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Y	M	D

Transferor / Borrower / Party Signature(s)

VANCOUVER CITY SAVINGS CREDIT UNION, by its authorized signatory(ies):

Print Name:

Print Name:

CANADA MORTGAGE AND HOUSING CORPORATION, by its authorized signatory(ies):

Print Name:

Print Name:

CITY OF VANCOUVER, by its authorized signatory:

Print Name:

OFFICER CERTIFICATION:

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

LAND TITLE ACT
FORM E

SCHEDULE

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Section 219 Covenant Entire Instrument
Priority Agreement		Granting the charge with one registration number less than this priority agreement priority over Mortgage CA6895724 and Assignment of Rents CA6895725
Priority Agreement		Granting the charge with two registration numbers less than this priority agreement priority over Mortgage CA8033935

**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)

ANHART COMMUNITY HOUSING SOCIETY (INC. NO. S0059011)

VANCOUVER CITY SAVINGS CREDIT UNION (INC. NO. FI-97) (AS TO PRIORITY)

CANADA MORTGAGE AND HOUSING CORPORATION (AS TO PRIORITY)

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

138 MAIN STREET

WHEREAS:

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

- (i) the Transferor, ANHART COMMUNITY HOUSING SOCIETY, is called the "Owner" as more particularly defined in Section 1.1; and
- (ii) the Transferee, CITY OF VANCOUVER, is called the "City" or the "City of Vancouver" when referring to corporate entity and "Vancouver" when referring to geographic location;

B. The Owner is the registered and beneficial owner of the Lands;

C. The Owner made an application to develop the Lands pursuant to Development Application DP-2019-00560 (the "Development Application") to permit the development of an six storey mixed-use building consisting of retail at grade and 70 micro dwelling units from the second to sixth storey with no parking (the "Development"), which Development Application was approved by the Development Permit Board in principle, subject to, among other things, fulfilment of the condition that, prior to issuance of a Development Permit, the Owner will ensure that:

- "1.1. *arrangements to be made to the satisfaction of the General Manager of Planning, Urban Design and Sustainability, General Manager of Arts, Culture and Community Services and the Director of Legal Services to enter into a Housing Agreement for a term of 60 years or the life of the building, whichever is greater, which will contain the following terms and conditions:*
 - i. *a no separate sales covenant;*
 - ii. *a no stratification covenant;*
 - iii. *a provision that none of such units will be rented for less than one month at a time;*
 - iv. *a requirement that a minimum of 60% of all Dwelling Units in building to comply with the definition of "social housing" as defined in the Vancouver Development Cost Levy By-law No. 9755 (the "Social Housing Units") of which:*
 - 1. *not less than 33% of the Social Housing Units (14 units) are occupied by persons eligible for either Income Assistance or a combination of basic Old Age Security pension and Guaranteed Income Supplement and are rented at rates no higher than the shelter component of Income Assistance;*
 - 2. *the target rents and affordability for the remaining 66% of Social Housing Units (22 units) will be as follows:*

- a. *not less than 33% of the Social Housing Units to be occupied only by households with incomes at or below the then current applicable Housing Income Limit (HIL) and each rented at a monthly rate no higher than the amount equal to 30% of the aggregate household annual income of the members of the household occupying such Social Housing Unit (for the immediately previous 12 months) divided by 12 months provided that if any such Social Housing Units are Micro Dwelling Units, then such Micro Dwelling Units shall be rented at a monthly rate no higher than the lesser of:*
 - i. *the average market monthly rent for studio apartments in the East Hastings zone (as may be renamed from time to time) as stated annually; and*
 - ii. *1/40th of the then current HIL for studio apartments; and*
 - b. *the remaining Social Housing will be the lesser of Affordable Market Rents and ninety percent (90%) of:*
 - i. *the appraised market rent for a comparable unit in the East Hastings zone (where a "comparable unit" means a unit of the same type, similar sized and in a building with a similar age and quality of construction); or*
 - ii. *in the absence of comparable units in the East Hastings zone, CMHC's Rental Survey for Vancouver by year of construction, 2005+ category, or an equivalent publication (as may be approved by the General Manager of Arts, Culture and Community Services);*
and provided further that if any such Social Housing Units are Micro Dwelling Units, then such Micro Dwelling Units shall be rented at a rate no higher than the average market rents for studio apartments in the East Hastings zone (as may be renamed from time to time) as stated annually in the Canada Mortgage and Housing Corporation's Annual Rental Market Survey or an equivalent publication (as may be approved by the General Manager of Arts, Culture and Community Services);
3. *a requirement that the remaining 40% of the Dwelling Units (28 units) be secured as rental and rented at rents below the average market rents for studio apartments in the East Hastings Zone, in accordance with the annual Canadian Mortgage and Housing Corporation Rental Housing Market Survey or equivalent publication and in compliance with the City's Micro Dwelling Policies and Guidelines;*
4. *a requirement that all Dwelling Units in the building are contained within a single parcel or air space parcel and legally and beneficially owned by a non-profit corporation, a non-profit*

- cooperative association or by or on behalf of the City, the Province of British Columbia or Canada; and*
5. *such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability, General Manager of Arts Culture and Community Services and the Director of Legal Services may in their sole discretion require.*

Note to Applicant: This condition will be secured by a Housing Agreement and Section 219 Covenant to be entered into by the City by by-law enacted pursuant to section 565.2 of the Vancouver Charter.”

(the “Housing Condition”); and

D. The Owner and the City are now 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, pursuant to Section 565.2 of the *Vancouver Charter* and to Section 219 of the *Land Title Act*, agree as follows in respect of the use of the Lands and the New Building:

ARTICLE 1 DEFINITIONS AND INTERPRETATIONS

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

- (a) “**Agreement**” means this housing agreement and building use covenant, including the foregoing Recitals;
- (b) “**City**” and “**City of Vancouver**” are defined in Recital A(ii);
- (c) “**City Manager**” means the chief administrator from time to time of the City and his/her successors in function and their respective nominees;
- (d) “**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;
- (e) “**Commencement Date**” means the date as of which this Agreement has been submitted to the Land Title Office;
- (f) “**Development**” means the development on the Lands described in Recital C as contemplated by the Rezoning;
- (g) “**Development Application**” has the meaning set out in Recital C;
- (h) “**Development Permit**” means a development permit issued by the City authorizing development on the Lands or any portion of the Lands as contemplated by the Development Application at any time following the date this Agreement is fully executed by the parties;

- (i) **“Director of Legal Services”** means the chief administrator from time to time of the Legal Services Department of the City and her/his successors in function and their respective nominees;
- (j) **“Dwelling Unit”** means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (k) **“General Manager of Arts, Culture and Community Services”** means the chief administrator from time to time of the Arts, Culture and Community Services Department of the City and his/her successors in function and their respective nominees;
- (l) **“Guaranteed Income Supplement”** means an additional benefit that may be added to the Old Age Security pension received by a person aged 65 and older if he/she has a low income and meets other specified criteria, which is administered and paid by the Government of Canada;
- (m) **“Housing Income Limit”** or **“HIL”** means the income required to pay the average market rent for an appropriately sized unit in the private market in Vancouver, determined annually by the British Columbia Housing Management Commission or its successors in function, which is derived from the Canada Mortgage and Housing Corporation’s Annual Rental Market Survey or an equivalent publication (as approved by the General Manager of Arts, Culture and Community Services);
- (n) **“Income Assistance”** means financial assistance for a person in financial need who has no other resources and meets other specified criteria, which is administered and paid by the Government of British Columbia;
- (o) **“Land Title Act”** means the Land Title Act, R.S.B.C. 1996, c. 250, and amendments thereto and re-enactments thereof;
- (p) **“Lands”** means the lands described in Item 2 in the Form C attached hereto; provided, however, that if the Lands are at any time subdivided by air space parcel subdivision, and this Agreement is thereafter discharged from one or more of the resulting legal parcels, then **“Lands”** will thereafter mean only the part of the Lands within the legal parcel(s) against which it remains registered;
- (q) **“Losses”** means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (r) **“Micro Dwelling Unit”** means a Dwelling Unit which measures no less than 23.2 m² and no more than 29.7 m² and is intended for single occupancy;
- (s) **“Micro Dwelling Policies and Guidelines”** means the Micro Dwelling Policies and Guidelines adopted by City Council on March 15, 2014 and amended

October 31, 2017 and as may be further amended or replaced from time to time hereafter;

- (t) **"New Building"** means each new building or structure to be built on the Lands as contemplated by the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (u) **"Occupancy Permit"** means a permit issued by the City authorizing the use and occupation of any New Building, development or partial development on the Lands;
- (v) **"Old Age Security"** means a monthly pension payment available to certain persons aged 65 and older who meet specified legal status, residence and other requirements, which is administered and paid by the Government of Canada;
- (w) **"Owner"** means the Transferor, ANHART COMMUNITY HOUSING SOCIETY, and any successors in title to the Lands or a portion of the Lands;
- (x) **"Rental Housing"** means a Dwelling Unit which is not occupied by the registered or beneficial owner of the same 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;
- (y) **"Rental Housing Units"** has the meaning ascribed to that term in section 2.1(b) and **"Rental Housing Unit"** means any such unit;
- (z) **"Rental Housing Micro Dwelling Units"** has the meaning ascribed to that term in section 2.1(b)(ii); and **"Rental Housing Micro Dwelling Unit"** means any such unit;
- (aa) **"Replacement Rental Housing Micro Dwelling Units"** has the meaning ascribed to that term in section 2.1(b) and **"Replacement Rental Housing Micro Dwelling Unit"** means any such units;
- (bb) **"Replacement Social Housing Units"** has the meaning ascribed to that term in section 2.1(b) and **"Replacement Social Housing Unit"** means any such unit;
- (cc) **"Residential Tenancy Act"** means the Residential Tenancy Act S.B.C. 2002, c. 78, and amendments thereto and re-enactments thereof;
- (dd) **"Social Housing"** has the meaning ascribed to that term in the Vancouver Development Cost Levy By-law No. 9755, namely Rental Housing;

- (i) in which at least one third of the dwelling units are occupied by persons eligible for either Income Assistance or a combination of basic Old Age Security pension and Guaranteed Income Supplement and are rented at rates no higher than the shelter component of Income Assistance;
 - (ii) which is owned by a non-profit corporation, by a non-profit co-operative association, or by or on behalf of the City, the Province of British Columbia or Canada; and
 - (iii) in respect of which the registered owner or ground lessee of the freehold or leasehold title to the land on which the housing is situate has granted to the City a Section 219 covenant, housing agreement, or other security for the housing commitments required by the City, registered against the freehold or leasehold title, with such priority of registration as the City may require;
- (ee) “**Social Housing Condition**” has the meaning ascribed to that term in Recital C;
- (ff) “**Social Housing Units**” has the meaning ascribed to that term in Section 2.1(b)(i), and “**Social Housing Unit**” means any such unit;
- (gg) “**Term**” means the term of this Agreement, which will commence on the Commencement Date and will end on the later of:
- (i) the date as of which the New Building is demolished or substantially destroyed; and
 - (ii) 60 years from the date when the final Occupancy Permit is issued for the New Building; and
- (hh) “**Vancouver Charter**” means the Vancouver Charter S.B.C. 1953, c. 55, and 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. Any reference to a statute is to the statute and its regulations in force on the date the Form C General Instrument - Part 1 is fully executed and to subsequent amendments to or replacements of the statute or regulations.
- (f) Legislation. Any reference to a statute includes and is a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any statute and regulations that may be passed which have the effect of supplementing or superseding such statutes and regulations.
- (g) Time. Time shall be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time shall be local Vancouver, British Columbia time.

ARTICLE 2 RESTRICTIONS ON USE AND SUBDIVISION

2.1 The Owner covenants and agrees that:

- (a) throughout the Term, the Lands and the New Building will not be used in any way that is inconsistent with the terms of this Agreement;
- (b) it will design, construct, equip, fit and finish within the New Building not less than sixty-eight (68) Micro Dwelling Units and one (1) two-bedroom Dwelling Unit of which:
 - (i) not less than sixty (60%) percent of such Dwelling Units (being forty-one (41) Micro Dwelling Units and one (1) two-bedroom Dwelling Unit) will be for use only for Social Housing (the “Social Housing Units”); and
 - (ii) the remaining Micro Dwelling Units will be for use only as Rental Housing (the “Rental Housing Micro Dwelling Units”),

(collectively, the “Rental Housing Units”)

in accordance with the Development Permit, any building permit issued pursuant thereto, the Micro Dwelling Policies and Guidelines, all applicable City by-laws and policies and the requirements of this Agreement, all to the satisfaction of the City and if the New Building is damaged, destroyed or

demolished before the 60 year anniversary of the issuance of the final Occupancy Permit, then it will promptly take all steps reasonably necessary to enable it to repair the New Building or build a replacement building or buildings on the Lands, which repaired New Building or replacement building(s) will contain not less than the same number and type of replacement Social Housing Units (each such replacement Social Housing Unit hereinafter referred to as a "Replacement Social Housing Unit") and Rental Housing Micro Dwelling Housing Units (each such replacement Rental Housing Micro Dwelling Unit hereinafter referred to as a "Replacement Rental Housing Micro Dwelling Unit") as the New Building formerly contained and will be subject, for the duration of the Term, to the same use restrictions as the Social Housing Units and Rental Housing Micro Dwelling Units and the New Building are pursuant to this Agreement;

- (c) throughout the Term the Social Housing Units will be used only in a manner that ensures its continued compliance with the definition of Social Housing;
- (d) throughout the Term, with respect to the Social Housing Units:
 - (i) not less than thirty-three (33%) percent of the Social Housing Units, will be occupied only by persons eligible for either Income Assistance or a combination of Old Age Security pension and the Guaranteed Income Supplement and rented at rental rates no higher than the shelter component of Income Assistance;
 - (ii) the target rents and affordability for the remaining Social Housing Units will be as follows:
 - A. not less than thirty-three (33%) percent of the Social Housing Units, including the one (1) two-bedroom Social Housing Unit, will be occupied only by households with incomes below the then current applicable HIL and
 - I. with respect to such Social Housing Units that are Micro Dwelling Units, each rented at a monthly rate no higher than the lesser of:
 - a. the average market monthly rent for studio apartments in the East Hastings zone (as may be renamed from time to time as stated annually in the Canada Mortgage and Housing Corporation's Annual Rental Market Survey or an equivalent publication (as may be approved by the General Manager of Arts, Culture and Community Services); and
 - b. 1/40th of the then current HIL for studio apartments; and

- II. with respect to the one (1) two-bedroom Social Housing Unit, rented at a monthly rate no higher than 30% of the aggregate household annual income of the members of the household occupying such Social Housing Unit (for the immediately previous 12 months) divided by 12 months; and
 - B. not less than thirty-three (33%) percent if the Social Housing Units will be rented at a rate no higher than the average market rents for studio apartments in the East Hastings zone (as may be renamed from time to time) as stated annually in the Canada Mortgage and Housing Corporation's Annual Rental Market Survey or an equivalent publication (as may be approved by the General Manager of Arts, Culture and Community Services);
- (e) throughout the Term, the Rental Housing Micro Dwelling Units will be rented at rents no higher than the average market rents for studio apartments in the East Hastings zone (as may be renamed from time to time) as stated annually in the Canada Mortgage and Housing Corporation's Annual Rental Market Survey or an equivalent publication (as may be approved by the General Manager of Arts, Culture and Community Services);
- (f) throughout the Term, the Rental Housing Units will only be used for the purpose of providing Rental Housing;
- (g) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any Social Housing Unit to be sold or otherwise transferred unless:
 - (i) every Rental Housing Unit is sold or otherwise transferred together and as a block to the same legal and beneficial owner; and
 - (ii) the sale or transfer is to the City or it otherwise obtains the express written consent of the City;
- (h) throughout the Term, all of the Rental Housing Units will be contained within a single parcel or air space parcel which is owned by a non-profit corporation, by a non-profit co-operative association, or by or on behalf of the City, the Province of British Columbia or Canada and the Owner will not suffer, cause or permit the Lands, or any part thereof, to be subdivided by strata plan or air space plan without the prior written consent of the City, which consent may be arbitrarily withheld;
- (i) throughout the Term, any sale or other transfer of title to a Rental Housing Unit in contravention of the covenant in Section 2.1(g), and any subdivision of the Lands in contravention of Section 2.1(h), 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;

- (j) throughout the Term, the Rental Housing Units will only be rented on a month-to-month or longer basis and in no case for less than one month;
- (k) throughout the Term, it will insure, or cause to be insured, the Lands and the New Building and all parts thereof to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands; and
- (l) throughout the Term, it will keep and maintain the Lands and the New Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition. If the Lands or the New Building or any part thereof is damaged, the Owner will promptly restore and repair the same whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred.

**ARTICLE 3
OCCUPANCY RESTRICTION ON THE LANDS**

- 3.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:
- (a) the Owner will not apply for any Occupancy Permit in respect of, and will not suffer or permit the occupation of, the New Building, and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit for the New Building, until such time as the Owner has delivered, to the General Manager of Arts, Culture and Community Services, in form and substance satisfactory to the General Manager of Arts, Culture and Community Services:
 - (i) proof of the insurance, consistent with the requirements of Section 2.1(k), is in force and effect; and
 - (ii) a final rent roll confirming the rents to be charged to the first occupants of the Rental Housing Units following issuance of the Occupancy Permit, the unit type mix and size, which rents, unit type mix and size will comply with those applicable to the Rental Housing Units; and
 - (b) the City will be under no obligation to issue any Occupancy Permit for the New Building or any part thereof, notwithstanding completion of construction of the New Building until such time as the Owner has complied with Section 3.1(a).
- 3.2 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 for the New Building until there is compliance with the provisions of this ARTICLE 3.

**ARTICLE 4
RECORD KEEPING**

- 4.1 The Owner will keep accurate records pertaining to the use and occupancy of the Rental Housing Units, including but not limited to the rent being charged to each Rental Housing Unit. Such records will be to the satisfaction of the City. At the request of the City, from time to time, the Owner will make such records available for inspection and copying by the City. The City will comply with the Owner's statutory obligations with respect to privacy of such information.

**ARTICLE 5
ENFORCEMENT**

- 5.1 This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it shall be entitled to court costs on a solicitor and own client basis.

**ARTICLE 6
RELEASE AND INDEMNITY**

- 6.1 Release and Indemnity. Subject to Section 6.2, the Owner hereby:
- (a) 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 or other right granted to the City pursuant to this Agreement; or
 - (ii) that 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 or which could not have been sustained “but for” any of the following:

- (i) this Agreement;
- (ii) the release by the City or any or all of the City’s rights under this Agreement or the loss of any rights purported to be granted hereby;
- (iii) 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 or other right granted to the City pursuant to this Agreement;
- (iv) 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
- (v) 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 5 will remain effective, and survive any modification of, or partial release or release of the covenants created by this Agreement, and any termination of this Agreement, whether by fulfilment of the covenants contained in this Agreement or otherwise.

ARTICLE 7 NOTICES

- 7.1 All notices, demands or requests of any kind which one party may be required or permitted to give to the other in connection with this Agreement, shall be in writing and shall be given by registered mail or personal delivery, addressed as follows:

- (a) If to the City:

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

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

(b) If to the Owner:

Anhart Community housing Society
PO Box 5003, Vancouver Main
Vancouver, BC V6B 4A9

Attention: Gordon Keith Wiebe

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

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

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

ARTICLE 8 MISCELLANEOUS

- 8.1 Agreement Runs With the Lands. The covenants and agreements set forth herein on the part of the Owner shall be covenants the burden of which shall run with and shall bind the Lands and shall attach thereto and run with each and every part into which the same may be subdivided or consolidated. Upon the sale or transfer of the legal or beneficial interest in the Lands, the parties agree that the covenants and agreements herein contained shall only be binding upon the transferring party in respect of a breach or acts or omissions occurring during its ownership of the Lands, and the transferring party shall otherwise be released from all covenants and agreements herein contained following such sale or transfer of the legal or beneficial interest in the Lands.
- 8.2 Agreement to be a First Charge. The Owner agrees to cause the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:
- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
- (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of the Development Permit; and

- (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.
- 8.3 **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 **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*.
- 8.7 **Perfection of Intention.** The Owner shall, after execution hereof, do or cause to be done at its own cost and expense all things and acts necessary to ensure that this Agreement is noted on title to the Lands as a housing agreement pursuant to Section 565.2 of the *Vancouver Charter* and also registered as a charge against title to the Lands with priority over all other encumbrances except those in favour of the City.
- 8.8 **Owner's Representations and Warranties.** The Owner represents and warrants to and covenants and agrees with the City that:
- (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all legal and beneficial interests in the title to the Lands with the interests in land created hereby;
 - (b) upon execution and delivery of this Agreement and registration thereof, the interests in land created hereby will encumber all legal and beneficial interests in the title to the Lands;

- (c) this Agreement will be fully and completely binding upon the Owner in accordance with its terms and the Owner will perform all of its obligations under this Agreement in accordance with its terms; and
- (d) the foregoing representations, warranties, covenants and agreement will have force and effect notwithstanding any knowledge on the part of the City whether actual or constructive concerning the status of the Owner with regard to the Lands or any other matter whatsoever.

8.9 Enurement. This Agreement shall enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement shall enure to the benefit of and be binding upon the Owner and its successors and assigns.

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

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) **"Existing Charges"** means the Mortgage registered under number CA6895724 and the Assignment of Rents registered under number CA6895725;
- (b) **"Existing Chargeholder"** means VANCOUVER CITY SAVINGS CREDIT UNION;
- (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.

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA8033935;
- (b) "Existing Chargeholder" means CANADA MORTGAGE AND HOUSING CORPORATION;
- (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