

EXPLANATION

**A By-law to amend Vehicles for Hire By-law No. 6066
regarding quadricycles**

Enactment of the attached By-law will accomplish Council's resolution of February 8, 2022 to amend the Vehicles for Hire By-law to regarding quadricycles.

Director of Legal Services
March 1, 2022

BY-LAW NO. _____

**A By-law to amend Vehicles for Hire By-law No. 6066
regarding quadricycles**

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

1. This By-law amends the indicated provisions and schedules of the Vehicles for Hire By-law No. 6066.

2. In section 2, in the definition of "Vehicle for Hire", Council adds a new classification in the correct alphabetical order as follows:

"Quadricycle", which means a 4-wheeled device that is propelled by human power and on which a person may ride, and that:

- (a) has a track width of not less than 1 metre,
- (b) has a rear track width that is greater than the height of the seat frame as measured from level ground to the seat frame,
- (c) is equipped with at least 2 sets of pedals for motive power,
- (d) is equipped with disc or drum brakes, and
- (e) is controlled by a single operator."

3. Council amends section 6(3)(c) by adding ", except that in the case of a quadricycle, the Inspector must be satisfied that the applicant is the holder of a valid policy of liability insurance pertaining to the vehicle with a minimum coverage of \$5,000,000 (five million dollars) that names the City as an additional insured" after "the applicant is the holder of a valid policy of liability insurance pertaining to the vehicle with a minimum coverage of \$2,000,000 (two million dollars)".

4. Council adds a new section 15A in the correct alphanumerical order as follows:

"Quadricycles

15A. (1) A person must not operate a quadricycle unless:

- (a) that person does so in compliance with the restrictions and prohibitions in subsection (2);
- (b) that person is carrying a copy of the approved route plan, and produces the plan for inspection on demand by the Chief Constable or the Inspector;
- (c) the rear of the quadricycle has a current vehicle for hire plate, issued under the authority of this By-law, affixed to it;
- (d) the equipment forming part of, attached to, or carried on or within the quadricycle complies with the requirements of

the *Motor Vehicle Act*, is acceptable to the Inspector, and includes turn signal lights and reflectors on wheels and carriages;

- (e) that person has the brakes of the quadricycle inspected at least annually by a repair shop that has a current business license issued by a municipality, and promptly undertakes any repair or maintenance to the brakes disclosed by such inspection;
 - (f) that person retains for at least two years all records of any inspection, repair, or maintenance referred to in subsection (e), and makes such records available to the Inspector at any time on request;
 - (g) the quadricycle has painted or otherwise permanently affixed, in figures at least 5 cm high, on each side and to the rear of the quadricycle a business name and identification number which uniquely identifies the quadricycle;
 - (h) the speakers of any sound amplification equipment used on a quadricycle are directed toward the centre of the quadricycle; and
 - (i) that person ensures that parking, storage, and maintenance of the quadricycle occurs only on private property, except for lawful parking on streets while waiting for customers.
- (2) No person shall operate a quadricycle:
- (a) from 10:01 p.m. to 6:59 a.m. on weekdays and Saturdays, or 10:01 p.m. to 9:59 a.m. on Sundays and holidays, or at any other time as required by the Inspector;
 - (b) in protected bicycle lanes as defined in the Street and Traffic By-law; and
 - (c) on any City street except in accordance with a route approved by the City Engineer, except that if:
 - (i) a portion of the approved route is temporarily obstructed or inaccessible due to construction or some other street occupancy authorized by the City, or
 - (ii) that person is ordered not to proceed along a portion of the approved route by the Chief Constable, the Inspector, or the City Engineer,then that person may divert from the approved route using the nearest minor streets or lanes, as defined in the Street

and Traffic By-law, or other streets to the extent necessary,
but must return to the approved route as soon as possible.

- (3) The owner of a quadricycle must cause any person who operates such quadricycle to comply with the requirements set out in subsection (1)."

5. Council amends Schedule A by adding the following to the list of license fees, in the correct alphabetical order:

“Quadricycle Per annum for each vehicle \$202.00”.

6. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

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

ENACTED by Council this day of 2022

Mayor

City Clerk

EXPLANATION**A By-law to amend Street and Traffic By-law No. 2849
regarding quadricycles**

Enactment of the attached By-law will accomplish Council's resolution of February 8, 2022 to amend the Street and Traffic By-law to enable quadricycle tours in Vancouver.

Director of Legal Services
March 1, 2022

BY-LAW NO. _____

**A By-law to amend Street and Traffic By-law No. 2849
regarding quadricycles**

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

1. This By-law amends the indicated provisions of the Street and Traffic By-law.
2. In section 3, Council adds the following definition in the correct alphabetical order:

“ **“Quadricycle”** means a 4-wheeled device that is propelled by human power and on which a person may ride, and that:

- (a) has a track width of not less than 1 metre,
- (b) has a rear track width that is greater than the height of the seat frame as measured from level ground to the seat frame,
- (c) is equipped with at least 2 sets of pedals for motive power,
- (d) is equipped with disc or drum brakes, and
- (e) is controlled by a single operator.”.

3. Council adds a new section 40B. in the correct alphanumeric order as follows:

“ **OPERATION OF QUADRICYCLES**

- 40B. (1) No person shall operate a quadricycle on City streets without first obtaining the approval of the City Engineer in writing for the route that the quadricycle will take.
- (2) The City Engineer may temporarily or permanently modify an approved route at any time if, in the City Engineer's opinion, it is advisable to do so.
- (3) The City Engineer may charge a route review fee of \$69.40 for their review of the route being proposed.”.

4. Council amends section 59 by striking out “For the purpose of this section a bicycle shall be regarded at all times as a slow moving vehicle.” and substituting “For the purposes of this section, bicycles, pedicabs, and quadricycles shall be regarded at all times as slow moving vehicles.

5. 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.

6. This By-law is to come into force and take effect upon enactment.

ENACTED by Council this _____ day of _____, 2022

Mayor

City Clerk

EXPLANATION

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

Following the Public Hearing on June 17, 2021, Council gave conditional approval to the rezoning of the site at 2725-2751 Kingsway. 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 resolutions.

Director of Legal Services
March 1, 2022

2725-2751 Kingsway

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-893 (d) attached as Schedule A to this By-law, and incorporates Schedule A into Schedule D of By-law No. 3575.

Designation of CD-1 District

2. The area shown within the heavy black outline on Schedule A is hereby designated CD-1 (806).

Uses

3. Subject to Council approval of the form of development, to all conditions, guidelines and policies adopted by Council, and to the conditions set out in this By-law or in a development permit, the only uses permitted within CD-1 (806), and the only uses for which the Director of Planning or Development Permit Board will issue development permits are:

- (a) Dwelling Uses, limited to Dwelling Units in conjunction with any of the uses listed in this By-law;
- (b) Cultural and Recreational Uses;
- (c) Office Uses;
- (d) Retail Uses;
- (e) Service Uses; and
- (f) Accessory Uses, customarily ancillary to the uses permitted in this section.

Conditions of Use

4.1 No portion of the first storey of a building to a depth of 10.7 m from the front wall of the building facing Kingsway and extending across its full width shall be used for residential purposes except for entrances to the residential portion.

4.2 All commercial uses and accessory uses must be carried on wholly within a completely enclosed building except for:

- (a) Farmers' Market;
- (b) Neighbourhood Public House;
- (c) Public Bike Share;
- (d) Restaurant;
- (e) Retail Store; and
- (f) Display of flowers, plants, fruits and vegetables, in conjunction with a permitted use.

4.3 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, of which:
 - (i) at least 25% of the total dwelling units must be two-bedroom units, and
 - (ii) at least 10% of the total dwelling units must be three-bedroom units; and
- (c) comply with all conditions, guidelines and policies adopted by Council.

Floor Area and Density

5.1 Computation of floor space ratio must assume that the site area is 4,635.2 m², being the site area at the time of the application for the rezoning evidenced by this By-law, and before any dedications.

5.2 The floor space ratio for all uses combined must not exceed 3.8.

5.3 The total floor area for commercial uses must be a minimum of 1,684 m².

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

5.5 Computation of floor area must exclude:

- (a) open residential balconies or sun decks and any other appurtenances which, in the opinion of the Director of Planning, are similar to the foregoing, except that:
 - (i) the total floor area of all such exclusions must not exceed 12% of the permitted residential floor area, and
 - (ii) the balconies must not be enclosed for the life of the building;

- (b) patios and roof gardens, provided that 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, provided that the maximum 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 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.

5.6 Computation of floor area may exclude amenity areas, recreation facilities and meeting rooms accessory to a residential use, to a maximum total of 10% of the total permitted floor area.

5.7 The use of floor area excluded under sections 5.5 and 5.6 must not include any use other than that which justified the exclusion.

Building Height

6. Building height, measured from the base surface, must not exceed 34.6 m.

Horizontal Angle of Daylight

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

7.2 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.

7.3 Measurement of the plane or planes referred to in section 7.2 must be horizontally from the centre of the bottom of each window.

7.4 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 the applicable policies and guidelines adopted by Council; and
- (b) the minimum distance of unobstructed view is not less than 3.7 m.

7.5 An obstruction referred to in section 7.2 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 (806).

- 7.6 A habitable room referred to in section 7.1 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

8. A development permit application for dwelling uses must include an acoustical report prepared by a registered professional acoustical engineer, demonstrating that the noise levels in those portions of the dwelling units listed below, do 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 the 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

9. Sections 2 through 14 of the Zoning and Development By-law apply to this CD-1 (806).

Severability

10. 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.

Force and effect

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

ENACTED by Council this day of , 2022

Mayor

City Clerk

Schedule A



The properties outlined in black (**█**) are rezoned:
 From **C-2 & RS-1** to **CD-1**

Z-893 (d)

RZ - 2725-2751 Kingsway

map: 1 of 1

scale: NTS



City of Vancouver

date: 2021-05-28

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

Following the Public Hearings on September 12 and 17, 2019, Council gave conditional approval to the rezoning of the site at 1535-1557 Grant 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 resolutions.

Director of Legal Services
March 1, 2022

1535-1557 Grant 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-757 (f) attached as Schedule A to this By-law, and incorporates Schedule A into Schedule D of By-law No. 3575.

Designation of CD-1 District

2. The area shown within the heavy black outline on Schedule A is hereby designated CD-1 (807).

Uses

3. Subject to Council approval of the form of development, to all conditions, guidelines and policies adopted by Council, and to the conditions set out in this By-law or in a development permit, the only uses permitted within CD-1 (807), 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;
- (b) Retail Uses, limited to Public Bike Share; and
- (c) Accessory uses customarily ancillary to the uses permitted in this section.

Conditions of Use

4. 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, of which:
 - (i) at least 25% of the total dwelling units must be two-bedroom units, and
 - (ii) at least 10% of the total dwelling units must be three-bedroom units; and
 - (c) comply with Council's "High Density Housing for Families with Children Guidelines".

Floor Area and Density

5.1 Computation of floor space ratio must assume that the site consists of 1,213.41 m², being the site size at the time of the application for the rezoning evidenced by this By-law, prior to any dedications.

5.2 The floor space ratio for all uses combined must not exceed 2.19.

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

5.4 Computation of floor area must exclude:

- (a) open residential balconies or sun decks 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 residential floor area, 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 that are at or below base surface, except that the exclusion for a parking space must not exceed 7.3 m in length;
- (d) amenity areas, recreational facilities and meeting rooms accessory to a residential use, to a maximum total area of 10% of the total permitted floor area; and
- (e) 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.

5.5 The use of floor area excluded under section 5.4 must not include any use other than that which justified the exclusion.

Building Height

6. Building height, measured from base surface to top of parapet, must not exceed 17.3 m.

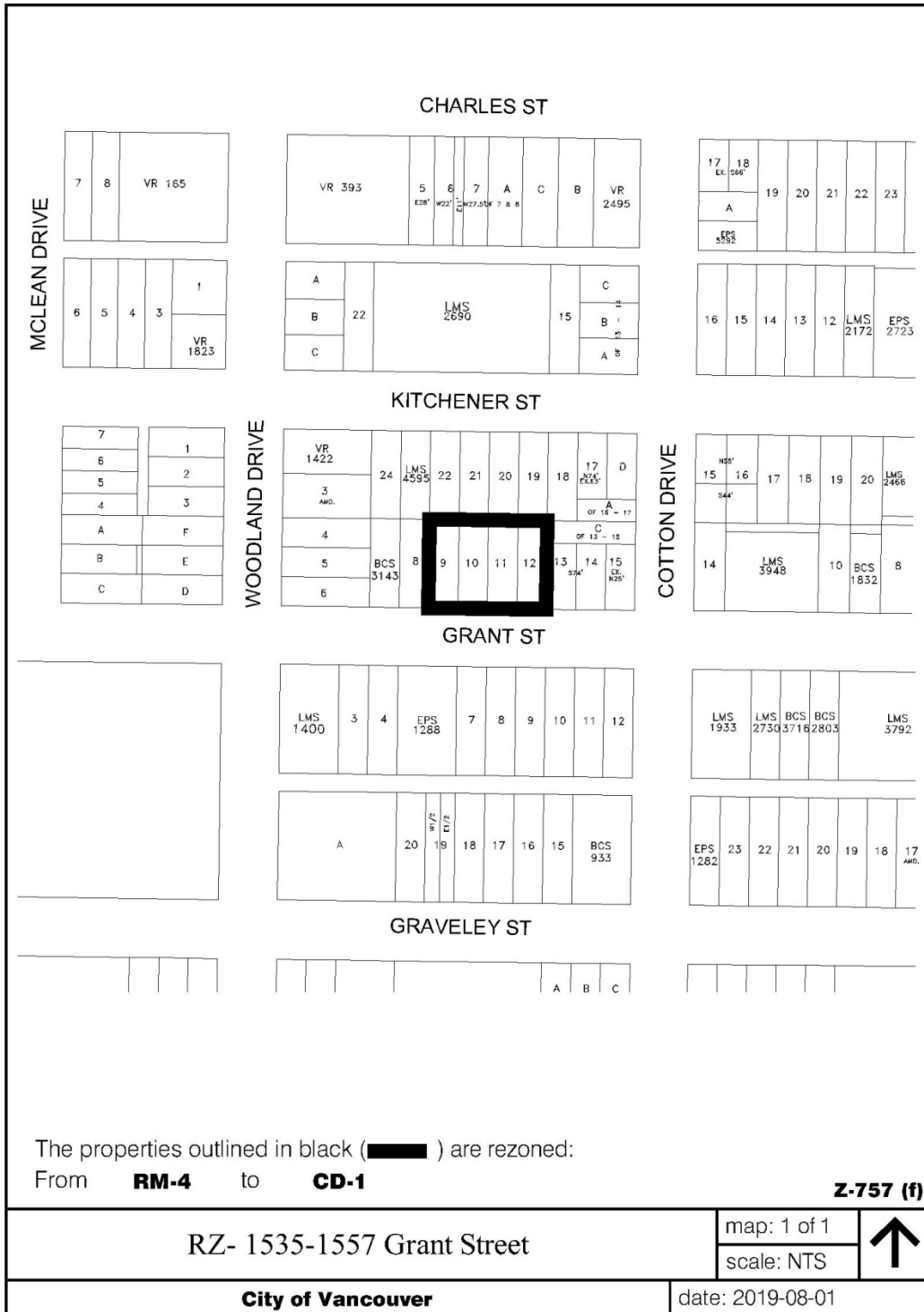
Horizontal Angle of Daylight

- 7.1 Each habitable room must have at least one window on an exterior wall of a building.
- 7.2 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.
- 7.3 Measurement of the plane or planes referred to in section 7.2 must be horizontally from the centre of the bottom of each window.
- 7.4 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 the applicable policies and guidelines adopted by Council; and
 - (b) the minimum distance of the unobstructed view is not less than 3.7 m.
- 7.5 An obstruction referred to in section 7.2 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 (807).
- 7.6 A habitable room referred to in section 7.1 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

8. 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.

Schedule A



EXPLANATION**Authorization to enter into a Housing Agreement
Re: 1303 Kingsway and 3728 Clark Drive**

After a public hearing on April 2, 2019, Council approved in principle the land owner's application to rezone the above noted property from C-2 (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 Arts, Culture and Community Services and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant, and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services
March 1, 2022

BY-LAW NO. _____

**A By-law to enact a Housing Agreement
for 1303 Kingsway and 3728 Clark Drive and repeal By-law No. 12638**

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:

010-314-962

LOT Q (REFERENCE PLAN 6910) BLOCK 36 DISTRICT
LOT 301 PLAN 187

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. Council hereby repeals By-law No. 12638.
3. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2022

Mayor

City Clerk



1. Application

**Andrea Shaw, TERRA LAW CORPORATION
2800 - 650 West Georgia Street
Vancouver BC V6B 4N7
604-628-8975**

File no. 504365

2. Description of Land

PID/Plan Number	Legal Description
010-314-962	LOT Q (REFERENCE PLAN 6910) BLOCK 36 DISTRICT LOT 301 PLAN 187

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Section 219 Covenant Entire Instrument
PRIORITY AGREEMENT		granting the section 219 covenant registered under the number that is one less than this priority agreement priority over mortgage CA9592110 and assignment of rents CA9592111 in favour of Bancorp Balanced Mortgage Fund II Ltd., Bancorp Growth Mortgage Fund II Ltd., Bancorp Financial Services Inc. and First National Financial GP Corporation

4. Terms

Part 2 of this instrument consists of:
(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

1106144 B.C. LTD., NO.BC1106144
BANCORP GROWTH MORTGAGE FUND II LTD., NO.BC0856914
BANCORP FINANCIAL SERVICES INC., NO.BC0712503
BANCORP BALANCED MORTGAGE FUND II LTD., NO.BC0856913
FIRST NATIONAL FINANCIAL GP CORPORATION, NO.A0067816

6. Transferee(s)

**CITY OF VANCOUVER
453 WEST 12TH AVENUE
VANCOUVER BC V5Y 1V4**

7. Additional or Modified Terms



8. Execution(s)

This instrument creates, assigns, modifies, enlarges 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.

Witnessing Officer Signature  <hr/> Nathan Ische Barrister & Solicitor Terra Law Corporation Suite 2800 - 650 West Georgia St. Vancouver, BC V6B 4N7 604-628-8964	Execution Date <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD <i>2022-02-16</i> </div>	Transferor Signature(s) 1106144 B.C. LTD. By their Authorized Signatory  <hr/> Name: <i>Clement Chung</i>
--	--	---

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.

Witnessing Officer Signature <hr/>	Execution Date <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD </div>	Transferor Signature(s) CITY OF VANCOUVER By their Authorized Signatory <hr/> 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.

Witnessing Officer Signature <hr/>	Execution Date <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD </div>	Transferor Signature(s) BANCORP BALANCED MORTGAGE FUND II LTD. By their Authorized Signatory <hr/> Name: <hr/> Name:
---	--	---



8. Execution(s)

This instrument creates, assigns, modifies, enlarges 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.

Witnessing Officer Signature	Execution Date	Transferor Signature(s)
_____	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD </div>	1106144 B.C. LTD. By their Authorized Signatory _____ Name:

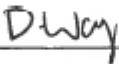

Officer Certification

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.

Witnessing Officer Signature	Execution Date	Transferor Signature(s)
_____	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD </div>	CITY OF VANCOUVER By their Authorized Signatory _____ 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.

Witnessing Officer Signature	Execution Date	Transferor Signature(s)
 _____ Danny Kevin Wong <small>A Commissioner for Taking Affidavits for British Columbia 1420-1090 West Georgia Street Vancouver, BC V6E 3V7 My Commission expires January 31, 2024</small>	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD 2022-02-17 </div>	BANCORP BALANCED MORTGAGE FUND II LTD. By their Authorized Signatory  _____ Name: Michael Saba


 Name: _____
Garry Wong



**BANCORP GROWTH MORTGAGE
FUND II LTD.**
By their Authorized Signatory


Name: Michael Saba


Name: Garry Wong

BANCORP FINANCIAL SERVICES INC.
By their Authorized Signatory


Name: Michael Saba


Name: Garry Wong

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.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

YYYY-MM-DD

**FIRST NATIONAL FINANCIAL GP
CORPORATION**
By their Authorized Signatory

Name:

**BANCORP GROWTH MORTGAGE
FUND II LTD.**
By their Authorized Signatory

Name:

Name:

BANCORP FINANCIAL SERVICES INC.
By their Authorized Signatory

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.

Witnessing Officer Signature


Execution Date

Transferor Signature(s)

see affidavit of execution.

YY-MM-DD
2022-02-22

**FIRST NATIONAL FINANCIAL GP
CORPORATION**
By their Authorized Signatory


Name:
Michael Williams
Vice-president
Commercial Finance
First National



Name: Adam Cameron
AVP, Commercial Operations

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.

Electronic Signature

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.

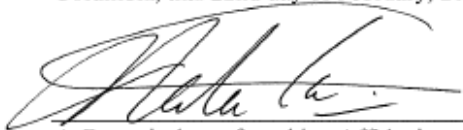
AFFIDAVIT OF EXECUTION

CANADA) IN THE MATTER OF THE execution of the
) Form C Covenant (Housing Agreement and
PROVINCE OF BRITISH COLUMBIA) Building Use Covenant) (the "**Instrument**") to
) be registered against PID: 010-314-962, LOT Q
TO WIT:) (REFERENCE PLAN 6910) BLOCK 36
) DISTRICT LOT 301 PLAN 187

I, Katherine Zhou, Lawyer of the City of Vancouver in the Province of British Columbia, MAKE OATH AND SAY:

1. I am 19 years of age or older and am acquainted with **Aaron Cameron** and **Michael Williams** (together, the "**Authorized Signatories**") named in the Instrument, who are authorized signatories of First National Financial GP Corporation (the "**Transferor**").
2. I am acquainted with the signatures of each of the Authorized Signatories through the use of video-conferencing technology and believe that the signatures subscribed to the Instrument are the signatures of the Authorized Signatories.
3. The Transferor existed at the time that the Instrument was executed and is legally entitled to hold and dispose of land, or an interest in land, in British Columbia.
4. The signatures of the Authorized Signatories were not certified by an officer under *Part 5* of the *Land Title Act*, R.S.B.C. 1996, c. 205 because it was medically unsafe to meet with them in person due to Covid-19.

SWORN BEFORE ME at the City of)
Vancouver, in the Province of British)
Columbia, this 22nd day of February, 2022.)



A Commissioner for taking Affidavits within)
the Province of British Columbia)



Name: Katherine Zhou

NABILA PIRANI
Barrister & Solicitor
1600 - 925 WEST GEORGIA ST.
VANCOUVER, B.C. V6C 3L2
(604) 685-3456

TERMS OF INSTRUMENT - PART 2

HOUSING AGREEMENT AND BUILDING USE COVENANT
RENTAL HOUSING
1303 Kingsway and 3728 Clark Drive

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- I. the Transferor, 1106144 B.C. LTD., is called the "Owner", as more particularly defined in Section 1.1(s); 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 from C-2 (Commercial) District to CD-1 (Comprehensive Development) District (the "Rezoning Application") to permit the development of a six-storey mixed-use building with commercial at grade and 54 secured for-profit affordable rental housing units and after a public hearing to consider the rezoning application, the rezoning application was approved by City Council in principle, subject to a number of conditions including that the Owner make arrangements to the satisfaction of the General Manager of Arts, Culture and Community Services and the Director of Legal Services to enter into a Housing Agreement by by-law enacted pursuant to Section 565.2 of the *Vancouver Charter* securing all residential units in the New Building as for-profit affordable rental housing units pursuant to Section 3.1A of the Vancouver DCL By-law (the "Housing Condition");
- D. To fulfill Housing Condition, the Owner registered a housing agreement on title to the lands under Registration Number CA8067539-40 (the "First Housing Agreement");
- E. During the development permitting process, the Owner determined not to seek the waiver of the development cost levy charges under section 3.1A of the Vancouver DCL By-law and instead intends to develop on the Lands a six-storey mixed-use building with commercial at grade and 54 secured market rental housing units. Accordingly, the General Manager of Planning, Urban Design & Sustainability and the Director of Legal Services have determined that requirements to provide rent rolls and which set maximum initial starting monthly rents, as more particularly set out in conditions 4 (d), (e) and (f) of the referral report to Council in furtherance of to the Rezoning Application, are not applicable; and
- F. Accordingly, the Owner is entering into this Agreement to satisfy the foregoing conditions and to enable discharge of the First Housing Agreement from title to the Lands.

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 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 at any time following the date this Agreement is fully executed by the parties authorizing the building of a New Building as contemplated by 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 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”** means the development on the Lands described in Recital E and approved by a Development Permit;
- (g) **“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 of any portion of the Lands contemplated by the Rezoning By-law;
- (h) **“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;
- (i) **“Discharge”** has the meaning ascribed to that term in Section 8.11.1(b);
- (j) **“Dwelling Unit”** means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (k) **“Effective Date”** means the date as of which this Agreement has been executed by all parties to it;
- (l) **“First Housing Agreement”** has the meaning ascribed to that term in Recital D;
- (m) **“General Manager of Planning, Urban Design and Sustainability”** means the chief administrator from time to time of the City’s Planning, Urban Design and Sustainability Department and her/his successors in function and their respective nominees;

- (n) **"Land Title Act"** means the *Land Title Act*, R.S.B.C. 1996, c. 250, as may be amended or replaced from time to time;
- (o) **"Lands"** means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the General Instrument - Part 1, and includes any parcels into which such land is consolidated or further subdivided;
- (p) **"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;
- (q) **"New Building"** means any new building or structure to be built on the Lands and any building or structure on the Lands being renovated, upgraded or refurbished as contemplated by any 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 any Development Permit;
- (r) **"Occupancy Permit"** means a permit issued by the City at any time following the date this Agreement is fully executed by the parties authorizing the use and occupation of any New Building, development or partial development on the Lands issued after the Effective Date;
- (s) **"Owner"** means the registered owner of the Lands as of the Effective Date, namely **1106144 B.C. LTD.** , and its successors and permitted assigns;
- (t) **"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 corporation or of another entity which is a shareholder of such corporation; or
 - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder referred to in paragraph (A); and
 - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (u) **"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;

- (v) **"Rental Housing Units"** means at least 54 new residential units of Rental Housing to be contained within the New Building upon its completion, as part of the Development, which units will comply with the terms in this Agreement and the Development Permit applicable to the same, and **"Rental Housing Unit"** means any one of them;
- (w) **"Rental Housing Parcel"** has the meaning ascribed to that term in Section 8.1(a);
- (x) **"Replacement Rental Housing Unit"** has the meaning ascribed to that term in Section 2.1(c) and **"Replacement Rental Housing Units"** means all of such units;
- (y) **"Residential Tenancy Act"** means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, as may be amended or replaced from time to time;
- (z) **"Rezoning Application"** has the meaning ascribed to that term in Recital C, as such application, or the conditions thereof, may be revised and accepted by the City;
- (aa) **"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;
- (bb) **"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;
- (cc) **"Vancouver"** has the meaning ascribed to that term in Recital A(ii); and
- (dd) **"Vancouver Charter"** means the *Vancouver Charter*, S.B.C. 1953, c. 55, as may be amended or replaced from time to time.

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 Effective 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 **Use of Lands.** 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) it will construct, fit and finish, at its sole cost and expense, the New Building containing not less than 54 Rental Housing Units, in accordance with this Agreement, the Development Permit, the Building Permit and all applicable City by-laws and policies, all to the satisfaction of the City;
- (c) when the New Building is completed and an Occupancy Permit has been issued and thereafter throughout the Term, all of the Rental Housing Units in the New Building will be used only for the purpose of providing Rental Housing in accordance with the terms of this Agreement, and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the Final Occupancy permit for the New Building, then 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) on the Lands (together with any remaining undestroyed or undemolished building) will also contain not less than 54 Rental Housing Units, which replacement Rental Housing Units will also be used only for the purpose of providing Rental Housing (each such replacement Rental Housing Unit hereinafter referred to as a "Replacement Rental Housing Unit"), in accordance with the terms of this Agreement and the applicable by-laws of the City and which

Replacement Rental Housing Units will be subject, for the remaining duration of the Term, to the same use restriction as the Rental Housing Units are pursuant to 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 one of the Rental Housing Units (or Replacement Rental Housing Units, as applicable) is sold or otherwise transferred together and as a block to the same legal or beneficial owner, as applicable, and subject to Section 7.7;
- (f) subject to ARTICLE 8, 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; provided, however, the Owner may, without obtaining any such consent, subdivide the Lands by strata plan or airspace subdivision plan so long as all of the Rental Housing Units are contained within one strata lot or one airspace parcel, respectively;
- (g) throughout the Term, that any sale of any 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, to the standard of a reasonable and prudent owner of similar buildings in Vancouver;
- (i) excluding reasonable wear and tear, if the New Building, or any part thereof, is damaged during the Term, it will promptly restore and repair the same whenever and as often as damage occurs, to a state and condition that is equal to or greater than the state and condition thereof as existed before such damage occurred; and
- (j) 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.

ARTICLE 3 OCCUPANCY RESTRICTION ON THE LANDS

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

- (a) the 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 General Manager of Planning, Urban Design and Sustainability, in form and substance satisfactory to the General Manager of Planning, Urban Design and Sustainability, proof of the insurance, consistent with the requirements of Section 2.1(j), is in force and effect; and
 - (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 3.1(a)(i); and
- (b) without limiting the general scope of ARTICLE 5, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of an Occupancy Permit until there is compliance with the provisions of this ARTICLE 3.

ARTICLE 4 ENFORCEMENT

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

ARTICLE 5 RELEASE AND INDEMNITY

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

- (a) 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 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 to the extent that such Losses are the result of any gross negligence or wrongful intentional acts by the City or 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, except to the extent that such Losses are the result of any gross negligence or wrongful intentional acts by the City or City Personnel.

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

5.2 Conduct of Proceedings.

- (a) In the event that a claim is made against the City which, pursuant to the terms of this Agreement, requires the Owner to indemnify the City or City Personnel, then the City will give notice of such claim to the Owner and, subject to Section 5.2(b),

the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.

- (b) Section 5.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 5.2(a) in the following circumstances:
- (i) where the City Manager determines that the proper administration of the municipal government requires that decisions with respect to the claim be made by the City;
 - (ii) where the City Manager determines that the public interest requires that the matter be resolved in an open and public way; or
 - (iii) where, in the opinion of the City Manager, the claim is of a nature where decisions with respect to settling or defending it would create a precedent with respect to other existing or potential claims affecting or involving the City;

provided however that if the City wishes to settle any claim, the City will not do so without the prior consent of the Owner, which consent will not be unreasonably withheld. In conducting any defence or making any settlement, the City will act in a manner reasonably consistent with the manner in which the City would act in connection with the defence or settlement of claims, suits, demands, actions or proceedings which would not be indemnified against under the provisions of this Section 5.2(b).

- (c) Regardless of whether the claim is being defended under Section 5.2(a) or Section 5.2(b), the party having conduct of the proceedings will, upon written request of the other party, provide to the other party all information in its possession relating to the proceedings which may be properly disclosed at law. If the party not having conduct of the proceedings so requests in writing in a timely fashion, the party having conduct of the proceedings will join the other party as a third party to the proceedings.

5.3 Survival of Release and Indemnities. The release and indemnities in this ARTICLE 5 will remain effective, and survive any modification of, or partial release or release of the covenants created by this Agreement, and any termination of this Agreement, whether by fulfilment of the covenants contained in this Agreement or otherwise.

ARTICLE 6 NOTICES

6.1 Notices. 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 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

- (b) If to the Owner, addressed to:

1106144 B.C. Ltd.
Suite 2800, 650 West Georgia Street
Vancouver, British Columbia
V6B 4N7

Attention: Ryan Beechinor and Clement Chung

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 7 MISCELLANEOUS

7.1 **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.

7.2 **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 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.

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

7.4 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.

7.5 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.

7.6 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.

7.7 Sale 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 in the Lands by way of mortgage), subject always to Sections 2.1(e) and 2.1(f), the Owner will cause the purchaser/transferee to enter into an assumption agreement with the City, in form and substance satisfactory to the Director of Legal Services, pursuant to which the purchaser/transferee will agree to be bound by all of the obligations, agreements and indemnities of the Owner under this Agreement. The provisions in this Section 7.7 will apply equally to all subsequent purchasers/transferees (other than the transfer of an interest in the Lands by way of mortgage).

7.8 Severability. All the obligations and covenants contained in this Agreement are severable, so that if any one or more of the obligations or covenants are held by or declared by a court of competent jurisdiction to be void or unenforceable; the balance of the obligations and covenants will remain and be binding.

7.9 Vancouver Charter. Nothing contained or implied herein will derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter*, and the rights, powers, duties and obligations of the City

under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and the City.

7.10 **Waiver.** The Owner acknowledges and agrees that no failure on the part of the City to exercise and no delay in exercising any right under this Agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.

7.11 **No Liability.** The parties agree that neither the Owner nor any successor in title to the Lands, or portions thereof, will be liable for breaches or non-observance or non-performance of covenants herein occurring as the same relate to any portion of the Lands after it has ceased to be the registered owner of such portion, but the Owner, or its successors in title, as the case may be, will remain liable after ceasing to be the registered owner of any portion of the Lands for all breaches of and non-observance of covenants herein as the same relate to such portion that occur prior to the Owner, or any successor in title, as the case may be, ceasing to be the registered owner of such portion.

ARTICLE 8 SUBDIVISION OF THE LANDS

8.1 **By Air Space Subdivision Plan.** Notwithstanding Section 2.1(f):

- (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 Rental Housing Units will thereafter be contained within a single air space parcel or remainder parcel (the "Rental Housing Parcel"); and
- (b) following such subdivision and the issuance of a final occupancy permit for the Rental Housing Parcel, the Owner may apply to the City for a partial discharge of this Agreement (the "Discharge") with respect to any legal parcel other than the 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, in his or her sole discretion, 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 Rental Housing Units or in respect of the 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.

8.2 Partial Discharge. Notwithstanding anything else contained herein, following the subdivision and partial discharge contemplated in Section 8.1, this Agreement will be read and applied so that the obligations and restrictions contained herein will apply only to the Rental Housing Parcel and this Agreement and the obligations and restrictions contained herein will not apply to any other portions of the Lands.

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

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) **"Existing Charges"** means the Mortgage registered under number CA9592110 and Assignment of Rents registered under number CA9592111;
- (a) **"Existing Chargeholder"** means collectively:
 - (i) BANCORP BALANCED MORTGAGE FUND II LTD. (Inc. No. BC0856913)
 - (ii) BANCORP GROWTH MORTGAGE FUND II LTD. (Inc. No. BC0856914)
 - (iii) BANCORP FINANCIAL SERVICES INC. (Inc. No. BC0712503)
 - (iv) FIRST NATIONAL FINANCIAL GP CORPORATION (Inc. No. A0067816);
- (b) **"New Charges"** means the Housing Agreement and Section 219 Covenant contained in the attached Terms of Instrument - Part 2; and
- (c) 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:

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