

**EXPLANATION****A By-law to amend the  
Ticket Offences By-law No. 9360 regarding  
Drinking Water Conservation By-law housekeeping amendment**

On March 29, 2022, Council enacted amendments to the Ticket Offences By-law that were consequential to amendments made to the Drinking Water Conservation By-law. An inadvertent error was made in one entry, and this by-law will correct that error.

Director of Legal Services  
May 17, 2022

**A By-law to amend the  
Ticket Offences By-law No. 9360 regarding  
Drinking Water Conservation By-law housekeeping amendment**

2. In Table 6, Council strikes out the entries in columns 2, 3 and 4 for section 8.2(a) and substitutes:

"

ENACTED by Council this      day of      , 2022

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



**EXPLANATION****A By-law to amend the  
By-law Notice Enforcement By-law No. 10201 regarding  
Drinking Water Conservation By-law housekeeping amendment**

On March 29, 2022, Council enacted amendments to the By-law Notice Enforcement By-law that were consequential to amendments made to the Drinking Water Conservation By-law. An inadvertent error was made in one entry, and this by-law will correct that error.

Director of Legal Services  
May 17, 2022

**BY-LAW NO. \_\_\_\_\_**

**A By-law to amend the  
By-law Notice Enforcement By-law No. 10201 regarding  
Drinking Water Conservation By-law housekeeping amendment**

1. This By-law amends the indicated provisions and Schedules of By-law Notice Enforcement By-law No. 10201.
2. Under the Drinking Water Conservation By-law section of Schedule A, Council strikes out the row for section 8.2(a) and substitutes:

“8.2(a)	Water a lawn Stage 2	500	250	250”.
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3. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.
4. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this      day of      , 2022

Mayor

City Clerk

**EXPLANATION**

**A By-law to amend  
Zoning and Development By-law No. 3575  
regarding the regulation of mini-storage warehouse**

Following the Public Hearing on April 14, 2022, Council resolved to amend the Zoning and Development By-law to restrict mini-storage warehouse as a permitted use on the first storey in the I and M District Schedules and near rapid transit stations in the I-1, I-2, and IC-2 District Schedules. The Director of Planning and the Director of Legal Services have advised that there are no prior to conditions and enactment of the attached By-law will implement Council's resolution.

Director of Legal Services  
May 17, 2022

**BY-LAW NO. \_\_\_\_\_**

**A By-law to amend  
Zoning and Development By-law No. 3575  
regarding the regulation of mini-storage warehouse**

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

1. This By-law amends the indicated provisions of the Zoning and Development By-law No. 3575.

2. Council amends section 11 by adding the following new section in the correct alphanumerical order:

**"11.23A Mini-storage Warehouse**

11.23A.1 Mini-storage Warehouse is not permitted:

- (a) on the first storey, or on any storey with its floor level within 2 m above finished grade, in any I or M districts, except for entrances;
- (b) in the following areas of the I-2 district:
  - (i) east of Ash Street, north of West Kent Avenue North, west of Manitoba Street, and south of Southwest Marine Drive,
  - (ii) east of Slocan Street, north of Grandview Highway, west of Boundary Road, and south of East Broadway and Lougheed Highway, and
  - (iii) east of Clark Drive, north of East 7th Avenue, west of McLean Drive, and south of East 6th Avenue;
- (c) in the area of the I-1 district west of Columbia Street, south of West 5th Avenue, and south of East 5th Avenue; or
- (d) in the area of the IC-2 district south of East 5th Avenue."

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

4. This By-law is to come into force and take effect on the date of its enactment, except that Section 2 does not come into force or take effect with regard to any complete development permit application received, with fees paid, on or before April 14, 2022.

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**EXPLANATION****2022 Rating By-law  
General Purpose Taxes**

Enactment of the attached By-law will levy the 2022 general purpose taxes, and implement Council's resolution of May 17, 2022, subject to a property tax cap rate on certain designated port facilities.

Director of Legal Services  
May 17, 2022

**BY-LAW NO. \_\_\_\_\_**

**A By-law to levy rates on all taxable real property in the City of Vancouver, to raise a sum which added to the estimated revenue of the City of Vancouver from other sources, will be sufficient to pay all debts and obligations of the City of Vancouver falling due within the year 2022 and not otherwise provided for**

**PREAMBLE**

For the year 2022, the following sums will have to be provided for the purposes hereafter named, by levying a rate or rates on all the taxable real property on the assessment roll prepared pursuant to the *Assessment Act* for general municipal purposes for the City of Vancouver:

<u>PURPOSES</u>	<u>AMOUNT</u>
Payment of interest on Debentures and Debt outstanding, payments to Sinking Fund in respect of Sinking Fund debenture debts incurred, and payment of principal on other debt falling due in 2022	\$97,963,000
All other necessary expenses of the City not otherwise provided for	<u>\$860,486,456</u>
Total General Purposes	<u>\$958,449,456:</u>

The taxable value of land and improvements, as shown on the real property assessment roll prepared by the British Columbia Assessment Authority, for general municipal purposes for the City of Vancouver for all classes other than class 1 – residential, class 5 – light industry, and class 6 - business and other is \$1,753,326,148.

The taxable value of land and improvements for general municipal purposes, based on the averaged assessment pursuant to By-law No. 13293, is \$356,271,619,219 for class 1 - residential, \$2,027,983,724 for class 5 – light industry, and \$81,579,796,036 for class 6 - business and other.

The *Ports Property Tax Act* and its regulations impose a maximum municipal tax rate of \$27.50 per \$1,000 of assessed value in respect of certain Class 4 – major industry properties (“ports properties”), bearing assessment roll numbers 561-192-30-2003, 561-226-34-4010, 561-226-34-4015, 561-226-34-4020, 561-230-30-4050, 561-250-76-4014, and 561-275-40-4050.

The *Ports Property Tax Act* and its regulations impose a maximum municipal tax rate of \$22.50 per \$1,000 of assessed value, in respect of designated new investment in Class 4 – major industry properties (“ports properties, new investments”), bearing assessment roll number 561-226-34-4015 and 561-250-76-4014.

The rates of taxation for the Provincial classes necessary to raise the sum of \$958,449,456 are as follows:

CLASS OF PROPERTY		DOLLARS OF TAX FOR EACH ONE THOUSAND DOLLARS OF TAXABLE VALUE
Residential	(1)	1.53131
Utilities	(2)	27.68552
Supportive Housing	(3)	0.00000
Major Industry (other than ports properties)	(4)	34.05142
Major Industry (ports properties)	(4)	27.50000
Major Industry (ports properties, new investment)	(4)	22.50000
Light Industry	(5)	4.72853
Business and Other	(6)	4.72853
Recreational Property / Non-profit Organization	(8)	1.52787
Farm	(9)	1.52787

such rates being dollars of general purposes tax for each thousand dollars of taxable value.

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

1. On each of the respective classes of property hereinafter set forth, which are more particularly defined in the *Assessment Act* and its regulations, there is hereby imposed per one thousand dollars of taxable value the several rates hereinafter set forth, namely:

- (a) For the purpose of providing for the payment of \$97,963,000, being the amount required for interest on Debentures and other debt, Sinking Fund obligations on Sinking Fund debentures, and principal payments on other Debt falling due in 2022, the rates of:

CLASS OF PROPERTY		DOLLARS OF TAX FOR EACH ONE THOUSAND DOLLARS OF TAXABLE VALUE
Residential	(1)	0.15652
Utilities	(2)	2.82973
Supportive Housing	(3)	0.00000
Major Industry (other than ports properties)	(4)	3.48039
Major Industry (ports properties)	(4)	2.81077
Major Industry (ports properties, new investment)	(4)	2.29972
Light Industry	(5)	0.48330
Business and Other	(6)	0.48330
Recreational Property / Non-profit Organization	(8)	0.15616
Farm	(9)	0.15616

- (b) For the purpose of providing the sum of \$860,486,456, being monies required for other necessary expenses of the City during the year 2022 not otherwise provided for, the rates of:

CLASS OF PROPERTY		DOLLARS OF TAX FOR EACH ONE THOUSAND DOLLARS OF TAXABLE VALUE
Residential	(1)	1.37479
Utilities	(2)	24.85579
Supportive Housing	(3)	0.00000
Major Industry (other than ports properties)	(4)	30.57103
Major Industry (ports properties)	(4)	24.68923
Major Industry (ports properties, new investment)	(4)	20.20028
Light Industry	(5)	4.24523
Business and Other	(6)	4.24523
Recreational Property / Non-profit Organization	(8)	1.37171
Farm	(9)	1.37171

2. 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



## BY-LAW NO. \_\_\_\_\_

**A By-law to levy a rate on property to raise monies  
required to be paid to the Metro Vancouver Regional District**

## PREAMBLE

Pursuant to the *Local Government Act*, the City of Vancouver is required to make due provision for the amount of money requisitioned from it by the Metro Vancouver Regional District.

The Metro Vancouver Regional District has requisitioned from the City the sum of \$28,560,964 for the year 2022.

The amount of money requisitioned by the Metro Vancouver Regional District may be raised by the City of Vancouver by levying a rate on property upon the basis provided in the *Local Government Act*.

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

1. For the purpose of providing for the payment of the amount requisitioned from the City by the Metro Vancouver Regional District in the year 2022, there is hereby imposed per one thousand dollars of taxable value of land and improvements, but excluding property that is taxable for school purposes only by a special act, the rates hereinafter set forth, namely:

CLASS OF PROPERTY		DOLLARS OF TAX FOR EACH ONE THOUSAND DOLLARS OF TAXABLE VALUE
Residential	(1)	0.05042
Utilities	(2)	0.17646
Supportive Housing	(3)	0.05042
Major Industry	(4)	0.17142
Light Industry	(5)	0.17142
Business and Other	(6)	0.12352
Recreational Property / Non-profit Organization	(8)	0.05042
Farm	(9)	0.05042

2. 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**

### **2022 Rating By-law Metro Vancouver Regional District**

Enactment of the attached By-law will levy the rates necessary to raise funds requisitioned by the Metro Vancouver Regional District for 2022.

Director of Legal Services  
May 17, 2022

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

After the public hearings on November 16 and 23, 2021, Council gave conditional approval to the rezoning of the site at 157-163 West King Edward Avenue. 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  
May 17, 2022

157-163 West King Edward Avenue

**BY-LAW NO. \_\_\_\_\_**

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

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 attached as Schedule A to this By-law, and incorporates Schedule A into Schedule D of By-law No. 3575.
2. The area shown within the heavy black outline on Schedule A is rezoned and moved from the RS-1 District Schedule to the RM-8AN District Schedule.
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

**Schedule A**



**EXPLANATION****Authorization to enter into a Housing Agreement  
Re: 3449-3479 West 41st Avenue and 5664 Collingwood Street**

After the public hearings on September 21 and 23, 2021, Council approved in principle the land owner's application to rezone the above noted property from RS-5 (Residential) District to CD-1 (Comprehensive Development) District, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant, and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services  
May 17, 2022

**BY-LAW NO.**

**A By-law to enact a Housing Agreement  
for 3449-3479 West 41st Avenue and 5664 Collingwood 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:

007-340-257	Lot A Blocks 6 and 7 District Lot 2027 Plan 16886
007-340-290	Lot B Blocks 6 and 7 District Lot 2027 Plan 16886
007-340-346	Lot C Blocks 6 and 7 District Lot 2027 Plan 16886
013-224-751	Lot 3 Blocks 6 and 7 District Lot 2027 Plan 2070

which lands are to be consolidated to create a parcel with a legal description of Lot 1 Blocks 6 and 7 District Lot 2027 Group 1 New Westminster Plan EPP118751, 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                      , 2022

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk





Land Title Act

## Charge

General Instrument – Part 1

### 1. Application

**Lawson Lundell LLP, Barristers and Solicitors**  
**1600 - 925 West Georgia Street**  
**Vancouver BC V6C 3L2**  
**(604) 685-3456**

Attention: Scott J. Anderson (Peggy Chau)  
File No.: 37037-150481

Housing Agreement and Building Use Covenant  
3449 - 3479 West 41st Avenue & 5664 Collingwood Street

### 2. Description of Land

PID/Plan Number	Legal Description
<b>EPP118751</b>	<b>LOT 1 BLOCKS 6 AND 7 DISTRICT LOT 2027 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP118751</b>

### 3. Nature of Interest

Type	Number	Additional Information
<b>COVENANT</b>		<b>Entire Instrument</b>
<b>PRIORITY AGREEMENT</b>		<b>Granting the Covenant with one registration number less than this priority agreement priority over Mortgage CA9624940 and Assignment of Rents CA9624941</b>

### 4. Terms

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

### 5. Transferor(s)

**SIGHTLINE PROPERTIES (COLLINGWOOD ST) LTD., NO.BC1229054**  
**THE BANK OF NOVA SCOTIA, AS TO PRIORITY**

### 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

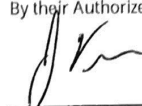
  
**ANDREW T. BEECHINOR**  
*Barrister & Solicitor*  
1600 - 925 WEST GEORGIA ST.  
VANCOUVER, B.C. V6C 3L2  
(604) 685-3456  
(as to all signatures)

Execution Date

YYYY-MM-DD  
2022-04-14

Transferor Signature(s)

**SIGHTLINE PROPERTIES  
(COLLINGWOOD ST) LTD.**  
By their Authorized Signatory



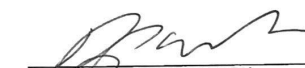
Print Name:  
Jamie Vaughan

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.

Witnessing Officer Signature

  
**DANIEL JAE DONG PARK**  
A Commissioner for Taking Affidavits  
for British Columbia  
34th Floor, 650 West Georgia Street  
Vancouver, BC V6B 4N7  
Commission Expiry Date: July 31, 2024

(as to all signatures)

Execution Date

YYYY-MM-DD  
2022-04-21

Transferor Signature(s)

**THE BANK OF NOVA SCOTIA**  
By their Authorized Signatory



Print Name:  
**Winston Wah Szeto**  
Director, Real Estate Banking

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  
**Charge**  
General Instrument – Part 1

Witnessing Officer Signature

\_\_\_\_\_

(as to all signatures)

Execution Date

YYYY-MM-DD

Transferor Signature(s)

**CITY OF VANCOUVER**  
as Transferee  
By their Authorized Signatory

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

**Officer Certification**

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

**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.

TERMS OF INSTRUMENT - PART 2

HOUSING AGREEMENT AND BUILDING USE COVENANT  
RENTAL HOUSING

3449 - 3479 WEST 41<sup>ST</sup> AVENUE AND 5664 COLLINGWOOD STREET

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- I. the Transferor, SIGHTLINE PROPERTIES (COLLINGWOOD ST) LTD., is called the “Owner”, as more particularly defined in Section 1.1(q); 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 RS-5 (Residential) District to CD-1 Comprehensive Development) District (the “Rezoning”) to permit the development of six-storey, residential building containing 109 market 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, among other things, fulfilment of the following condition prior to enactment of the rezoning by-law (the “Rezoning By-law”):
- “2.6 Make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement and/or Section 219 Covenant to secure all 109 residential units as secured market rental housing units pursuant to the City’s Affordable Housing Choices Policy Program, for the longer of 60 years and the life of the building, subject to a no-separate-sales covenant and a no-stratification covenant, and such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may require”, and
- D. The Owner is entering into this Agreement to satisfy the foregoing conditions.

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:

{01691985v3}  
March 30, 2022

Housing Agreement and Building Use Covenant  
3449 - 3479 West 41<sup>st</sup> Avenue & 5664 Collingwood Street

- (a) **"Agreement"** means this housing agreement and building use covenant, including the foregoing recitals and all schedules hereto;
- (b) **"Building Permit"** means any building permit issued by the City authorizing the building of a New Building as contemplated by the 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 C and approved by a Development Permit;
- (g) **"Development Permit"** means any development permit issued by the City authorizing the development of any portion of the Lands contemplated by the Rezoning By-law;
- (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) **"Dwelling Unit"** means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (j) **"Effective Date"** means the date as of which this Agreement has been executed by all parties to it;
- (k) **"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;
- (l) **"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;
- (m) **"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;
- (n) **"Losses"** means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, judgements, builders liens, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;

- (o) **"New Building"** means any new building or structure to be built on the Lands 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;
- (p) **"Occupancy Permit"** means a permit issued by the City authorizing the use and occupation of any New Building, development or partial development on the Lands issued after the Effective Date;
- (q) **"Owner"** means the registered owner of the Lands as of the Effective Date, namely SIGHTLINE PROPERTIES (COLLINGWOOD ST) LTD., and its successors and permitted assigns;
- (r) **"Related Person"** means, where the registered or beneficial owner of the Rental Housing Units is:
  - (i) a corporation (as that term is defined in the *Business Corporations Act*, S.B.C. 2002, c. 57), then a Related Person is:
    - (A) an officer, director or shareholder of such corporation or of another entity which is a shareholder of such corporation; or
    - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder referred to in paragraph (A); and
  - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (s) **"Rental Housing"** means a 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;
- (t) **"Rental Housing Units"** means at least **one hundred and nine (109)** 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;
- (u) **"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;
- (v) **"Residential Tenancy Act"** means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, as may be amended or replaced from time to time;
- (w) **"Rezoning"** means the rezoning of the Lands as described in Recital C;

- (x) “Rezoning By-law” has the meaning ascribed to it in Recital C;
- (y) “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 first New Building constructed on the Lands; and
  - (ii) the date as of which the first New Building constructed on the Lands is demolished or substantially destroyed;
- (z) “Vancouver” has the meaning ascribed to that term in Recital A(ii); and
- (aa) “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 109 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 109 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) 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;
- (i) 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 that 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 in each case to the extent attributable to the wrongful intentional acts of the City or the City Personnel; and

(b) covenants and agrees to indemnify and save harmless the City and City Personnel, from and against all Losses which may arise or accrue to any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to, by reason of or which could not have been sustained "but for" any of the following:

- (i) this Agreement;
- (ii) the City or City Personnel:
  - (A) reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
  - (B) withholding any permit pursuant to this Agreement;
  - (C) performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement; or
  - (D) exercising any of its rights under any Section 219 covenant, Vancouver Charter Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or
- (iii) any negligent act or omission or wilful misconduct of the Owner or any of the Owner's Personnel in connection with the observance and performance of the obligations of the Owner under this Agreement; or
- (iv) any default in the due observance and performance of the obligations and responsibilities of the Owner under this Agreement,

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel, except in each case to the extent attributable to the wrongful intentional acts of the City or the 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:

**Sightline Properties (Collingwood St) Ltd.**  
401 - 1505 West 2<sup>nd</sup> Avenue  
Vancouver, British Columbia  
V6H 3Y4

Attention: **Jamie Vaughan**

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 land title search 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.

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 Chargeholder"** means THE BANK OF NOVA SCOTIA;
- (b) **"Existing Charges"** means the Mortgage registered under number CA9624940 and the Assignment of Rents registered under number CA9624941;
- (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:

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

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

**END OF DOCUMENT**



**EXPLANATION****Authorization to enter into a Housing Agreement  
Re: 118-150 Robson Street (828 Cambie Street)**

After a Public Hearing on January 25, 2022 to consider a rezoning application, the application was approved by Council in principle, subject to fulfilment of the condition that the owner of the subject lands make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement pursuant to Section 565.2 of the *Vancouver Charter*.

Such a Housing Agreement has been accepted by the owner applicant and its lender. Enactment of the attached By-law will complete the process to implement Council's resolution regarding a Housing Agreement.

Director of Legal Services  
May 17, 2022

**BY-LAW NO.**

**A By-law to enact a Housing Agreement  
for 118-150 Robson Street (828 Cambie 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 that are legally described as:

031-375-499

Lot A Block 68 District Lot 541 Group 1 New Westminster  
District Plan EPP109127

in substantially the form and substance of the Housing Agreement attached to this By-law as Schedule A, 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       , 2022

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Mayor

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City Clerk

## Schedule A



Land Title Act

### Charge

General Instrument – Part 1

#### 1. Application

**Majic Greenwood, McCarthy Tétrault LLP**  
2400-745 Thurlow Street  
Vancouver BC V6E 0C5  
604-643-5941

Market Rental Housing Agreement  
215880/471466

#### 2. Description of Land

PID/Plan Number      Legal Description

**031-375-499      LOT A BLOCK 68 DISTRICT LOT 541 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP109127**

#### 3. Nature of Interest

Type	Number	Additional Information
<b>COVENANT</b>		<b>Section 219</b>
<b>PRIORITY AGREEMENT</b>		<b>granting the above Covenant priority over Mortgage CA4311823, extended by CA8951244, and Assignment of Rents CA4311824, extended by CA8951245</b>

#### 4. Terms

Part 2 of this instrument consists of:

**(b) Express Charge Terms Annexed as Part 2**

#### 5. Transferor(s)

**AMACON DEVELOPMENT (ROBSON) CORP., NO.BC0983027, (AS TO SECTION 219 COVENANT)**

**THE BANK OF NOVA SCOTIA, (AS TO PRIORITY)**

#### 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

Execution Date

Transferor / Transferee / Party Signature(s)

YYY-MM-DD  
2022-04-14

**AMACON DEVELOPMENT (ROBSON)  
CORP.**

As to Covenant  
By their Authorized Signatory

Print Name: Marcello De Cotiis

**RANDY J. BAKER**  
A Commissioner for Taking  
Affidavits for British Columbia  
My Commission expires Feb. 28, 2025  
Suite 500 - 856 Homer Street  
Vancouver, BC V6B 2W5

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.

Witnessing Officer Signature

Execution Date

Transferor / Transferee / Party Signature(s)

YYY-MM-DD  
2022-04-21

**The Bank of Nova Scotia**

As to Priority  
By their Authorized Signatory

Print Name:  
**Winston Wah Szeto**  
Director, Real Estate Banking

**DANIEL JAE DONG PARK**  
A Commissioner for Taking Affidavits  
for British Columbia  
34th Floor, 650 West Georgia Street  
Vancouver, BC V6B 4N7  
Commission Expiry Date: July 31, 2024

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  
**Charge**  
General Instrument – Part 1

Witnessing Officer Signature

\_\_\_\_\_

Execution Date

YYYY-MM-DD

Transferor / Transferee / Party Signature(s)

**City of Vancouver**  
as Transferee  
By their Authorized Signatory

Print Name:

Print Name:

**Officer Certification**

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

**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.

## TERMS OF INSTRUMENT - PART 2

### HOUSING AGREEMENT (MARKET RENTAL)

**118-150 Robson Street (828 Cambie Street)**

#### Introduction

- A. It is understood and agreed that this Agreement will be read as follows:
  - I. the Transferor, AMACON DEVELOPMENT (ROBSON) CORP., is called the “**Owner**”, as more particularly defined in Section 1.1; and
  - II. the Transferee, the CITY OF VANCOUVER, is called the “**City**” or the “**City of Vancouver**” when referring to the 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 a text amendment application to amend the Zoning and Development By-law for CD-1 (776) for the Lands to increase the floor space ratio and increase the floor area for residential use, and after a public hearing to consider the text amendment application, the application was approved by City Council, in principle, subject to *inter alia* fulfillment of the condition that the Owner, at no cost to the City, make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement and Section 219 Covenant to secure all six rental residential units in the Development as secured market rental housing units for the longer of 60 years and the life of the building, and subject to the following additional conditions:
  - I. a no separate sales covenant;
  - ii. a no stratification covenant;
  - iii. that none of such units will be rented for less than one month at a time; and
  - IV. such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may in their sole discretion require,

(the “**Market Rental Housing Condition**”); and
- D. The Owner and the City are now entering into this Agreement to satisfy the Market Rental Housing Condition.

#### Consideration

NOW THEREFORE THIS AGREEMENT WITNESSES that for Ten (\$10) Dollars and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged and agreed to by the parties), the Owner and the City, pursuant to Section 565.2 of the *Vancouver*

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

#### Terms of Agreement

#### ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 **Definitions.** In this Agreement the following terms have the following definitions, unless specifically otherwise provided in this Agreement:

- (a) **“Agreement”** means this agreement, including the foregoing Recitals, and any Schedules attached hereto;
- (b) **“Building”** means any building or structure on the Lands, including additions and alterations to an existing building or structure, at any time following the date this Agreement is fully executed, all as contemplated by the Rezoning and the Development Permit, and includes any portion of such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Rezoning or the Development Permit;
- (c) **“Business Corporations Act”** means the *Business Corporations Act*, S.B.C. 2002, c. 57, and all amendments thereto and re-enactments thereof;
- (d) **“City” or “City of Vancouver”** means the City of Vancouver in its capacity as a corporate entity;
- (e) **“City Manager”** means the chief administrator, from time to time, of the City and his or her successors in function and their respective nominees;
- (f) **“City Personnel”** means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (g) **“Commencement Date”** means the date as of which this Agreement has been executed by all parties to it;
- (h) **“Development”** means the development project to be constructed on the Lands in accordance with the Development Permit;
- (i) **“Development Permit”** means a development permit issued by the City at any time following the date this Agreement is fully executed and delivered by the parties hereto;
- (j) **“Director of Legal Services”** means the chief administrator, from time to time, of the City’s Legal Services Department and his or her successors in function and their respective nominees;
- (k) **“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 his or her successors in function and their respective nominees;

- (l) **“High-Density Housing for Families With Children Guidelines”** means the City’s High-Density Housing for Families With Children Guidelines adopted by the City’s elected council on March 24, 1992, and any modifications thereto or replacements thereof in force and effect as of the date of issuance of the first building permit for the Development;
- (m) **“Land Title Act”** means the *Land Title Act*, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
- (n) **“Lands”** means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the General Instrument - Part 1 to which these Terms of Instrument - Part 2 are attached, and includes any parcels into which such land is consolidated or further subdivided (including, without limitation, a subdivision pursuant to the *Land Title Act* and a subdivision pursuant to the *Strata Property Act*);
- (o) **“Losses”** means all actions, causes of action, claims, compensation, costs, demands, damages, expenses, fines, judgements, legal obligations, liabilities, losses, orders, penalties, suits and builders liens of every nature or kind whatsoever (whether direct, indirect or consequential, including, without limitation, in respect of, incidental to or resulting from any consequential injuries to or death of persons or damage to property or loss of profits and loss of use and damages arising out of delays) and all legal costs on a solicitor-and-own-client basis;
- (p) **“Market 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 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;
- (q) **“Market Rental Housing Condition”** has the meaning ascribed to that term in Recital C;
- (r) **“Market Rental Housing Units”** has the meaning ascribed to that term in Section 2.1(b);
- (s) **“Market Rental Housing Units Air Space Parcel”** has the meaning ascribed to that term in Section 3.1;
- (t) **“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 Building, development or partial development on the Lands or any portion of the Lands;



- (u) **“Owner”** means the Transferor, including its successors and permitted assigns and any successors in title to the Lands or a portion of the Lands;
- (v) **“Related Person”** means, where the registered or beneficial owner of the Market Rental Housing Units is:
  - (i) a corporation (as that term is defined in the *Business Corporations Act*), then a Related Person is:
    - (A) an officer, director or shareholder of such Owner or of another entity which is a shareholder of such Owner; or
    - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder; and
  - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (w) **“Residential Tenancy Act”** means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, and all amendments thereto and re-enactments thereof;
- (x) **“Rezoning”** means the rezoning of the Lands described in Recital C of this Agreement;
- (y) **“Term”** means the term of this Agreement, which will commence on the Commencement Date and will end on the later of:
  - (i) the date as of which the Building is demolished or substantially destroyed; or
  - (ii) 60 years from the date when the final Occupancy Permit is issued for the Market Rental Housing Units; and
- (z) **“Vancouver Charter”** means the *Vancouver Charter*, S.B.C. 1953, c. 55, and all amendments thereto and re-enactments thereof.

## 1.2 Interpretation.

- (a) Any interest in land created hereby, including the interests noted in the General Instrument - Part 1 to which these Terms of Instrument - Part 2 are attached, and found in certain Articles, Sections, paragraphs or parts of this Agreement, will be construed, interpreted and given force in the context of those portions of this Agreement:
  - (i) that define the terms used in this Agreement;
  - (ii) that deal with the interpretation of this Agreement; and
  - (iii) that are otherwise of general application.

- (b) The word “including” when following any general statement, term, or matter is not to be construed to limit such general statement, term, or matter to the specific items set forth immediately following such word or to similar items whether or not non-limiting language such as “without limitation” or “but not limited to” or words of similar import are used with reference thereto, but rather such general statement, term, or matter is to be construed to refer to all other items that could reasonably fall within the broadest possible scope of such general statement, term, or matter.
- (c) Any Schedules attached to this Agreement constitute an integral part of this Agreement.
- (d) The division of this Agreement into Articles and Sections and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement.
- (e) Words importing the singular number only will include the plural and *vice versa*, words importing the masculine gender will include the feminine and neuter genders and *vice versa*, and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and *vice versa*.
- (f) 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.
- (g) 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 General Instrument - Part 1 to which these Terms of Instrument - Part 2 are attached is fully executed and to subsequent amendments to or re-enactments or replacements of such statute or regulations.

## ARTICLE 2 RESTRICTIONS ON USE AND SUBDIVISION

- 2.1 Restrictions.** The Owner covenants and agrees with the City, in respect of the use of the Lands and the Building, that:
- (a) throughout the Term, the Lands and the Building will not be used in any way that is inconsistent with the terms of this Agreement;
  - (b) if and when it carries out the development on the Lands after the date of this Agreement as contemplated in the Development Permit, it will construct at its

sole cost and expense, and throughout the Term will maintain not less than six residential units in the Development designated as the market rental units contemplated by the Rezoning (the “**Market Rental Housing Units**”), all in accordance with the Market Rental Housing Condition, the Development Permit, any building permit issued pursuant thereto, all applicable City by-laws and policies, and the requirements of this Agreement;

- (c) throughout the Term, not less than thirty-five percent (35%) of the Market Rental Housing Units will have at least two (2) bedrooms and will be designed to be suitable for families with children in accordance with the High-Density Housing for Families With Children Guidelines;
- (d) throughout the Term, the Market Rental Housing Units will only be used for the purpose of providing Market Rental Housing;
- (e) throughout the Term, none of the Market Rental Housing Units will be rented for less than one month at a time;
- (f) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies or by way of mortgage, it will not suffer, cause or permit, beneficial or registered title to any Market Rental Housing Unit to be sold or otherwise transferred unless title to every Market Rental Housing Unit is sold or otherwise transferred together and as a block to the same legal or beneficial owner, as applicable, subject to Section 8.1;
- (g) throughout the Term, it will not suffer, cause or permit the Building to be subdivided by subdivision plan, strata plan or air space plan without the prior written consent of the City, which consent may be arbitrarily withheld, except as may be permitted by Article 3 below;
- (h) throughout the Term, any sale of a Market Rental Housing Unit in contravention of the covenant in Section 2.1(f), and any subdivision in contravention of Section 2.1(g), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner’s expense;
- (i) it will insure, or cause to be insured, the Building, the Market Rental Housing Units 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;
- (j) throughout the Term, it will keep and maintain the Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition to the standard of a reasonable and prudent owner of similar buildings, reasonable wear and tear excepted, subject always to the *Residential Tenancy Act*. If the Market Rental Housing Units or any part of any thereof are/is damaged (and not demolished or substantially destroyed) before the end of the Term, the Owner will, subject to the *Residential Tenancy Act*, promptly restore and repair the same whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred; and

- (k) in the event of the substantial or complete destruction or demolition of any Building or Buildings containing some or all of the Market Rental Housing Units prior to the 60 year anniversary of the issuance of the final Occupancy Permit for such Building(s), the Owner will promptly take all steps reasonably necessary to enable it to build a replacement building or buildings on the Lands, which shall contain not less than the same number and type of replacement Market Rental Housing Units as the Building(s) formerly contained, which building(s) will be subject to the same use restrictions as the Building(s) pursuant to this Agreement for the duration of the Term.

### ARTICLE 3 SUBDIVISION OF THE LANDS AND THE BUILDING

#### 3.1 **Airspace Subdivision.** Notwithstanding Section 2.1(g):

- (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 Owner may subdivide the Lands by the deposit of an air space subdivision plan, to enable:
  - (i) all of the Market Rental Housing Units to be contained within one air space parcel (the "**Market Rental Housing Units Air Space Parcel**"); and
  - (ii) other components of the Development to be contained within one or more other air space parcel(s) or a remainder parcel;
- (b) following such a subdivision and the issuance of a final Occupancy Permit for the Market Rental Housing Units Air Space Parcel, the Owner may apply to the City for a partial discharge of this Agreement with respect to any legal parcel other than the Market Rental Housing Units Air Space Parcel, and the City will on request of the Owner execute and deliver a registrable discharge of this Agreement in respect of such other parcel(s) (whereupon the term "Lands" as used in this Agreement will be read as not including such other parcel(s)) provided, that:
  - (i) the Director of Legal Services is satisfied that such discharge will not unreasonably alter, restrict or limit the City's rights and the Owner's agreements and obligations in respect of the Market Rental Housing Units or in respect of the Market Rental Housing Units Air Space Parcel pursuant to this Agreement;
  - (ii) any such discharge will be in form and substance acceptable to the Director of Legal Services and will be prepared by the Owner at its cost;
  - (iii) the City will have a reasonable amount of time to execute and return any such discharge; and
  - (iv) the preparation and registration of any such discharge will be without cost to the City.

- 3.2 Partial Discharge.** Following such subdivision and partial discharge, this Agreement will be read and applied so that the obligations herein will apply only to any parcel in which Market Rental Housing Units are contained.

#### **ARTICLE 4 OCCUPANCY RESTRICTION**

- 4.1 No Occupancy.** The Owner covenants and agrees with the City, in respect of the use of the Lands and the Building that the Lands and Building will not be used or occupied except as follows:
- (a) the Owner will not apply for any Occupancy Permit in respect of, and will not suffer or permit the occupation of, the Building and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit until such time as the Owner has delivered, to the satisfaction of the General Manager of Planning, Urban Design and Sustainability proof of the insurance, consistent with the requirements of Section 2.1(i), is in force and effect, in form and substance satisfactory to the City; and
  - (b) the City will be under no obligation to issue any Occupancy Permit, notwithstanding completion of construction of the Building until such time as the Owner has complied with Section 3.1(a); and

without limiting the general scope of ARTICLE 7, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of an Occupancy Permit until there is compliance with the provisions of this ARTICLE 4.

#### **ARTICLE 5 RECORD KEEPING**

- 5.1 Record Keeping.** The Owner will keep accurate records pertaining to the use and occupancy of the Market Rental Housing Units, such records to 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, subject to any applicable laws with respect to the privacy of such information. The City will comply with the Owner's statutory obligations with respect to privacy of such information.

#### **ARTICLE 6 ENFORCEMENT**

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

#### **ARTICLE 7 RELEASE AND INDEMNITY**

- 7.1 Release and Indemnity.** Except in each case to the extent attributable to the wrongful intentional acts of the City or the City Personnel, and subject to Section 7.3, the Owner hereby:

- (a) releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner and covenants and agrees to indemnify and save harmless the City and all City Personnel from and against all Losses which may arise, accrue or be incurred by the City or any City Personnel or which are made by any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to:

- (i) by reason of the City or City Personnel:
  - (ii) reviewing, accepting or approving the design, specifications, materials and methods for construction of the Building or any part thereof;
  - (iii) withholding any permit pursuant to this Agreement; or
  - (iv) exercising any of its rights under any Section 219 covenant or other right granted to the City pursuant to this Agreement; or
  - (v) that otherwise arise out of, or would not have been incurred but for this Agreement;

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel; and

- (b) covenants and agrees to indemnify and save harmless the City and City Personnel, from and against all Losses which may arise or accrue to any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to, by reason of:
  - (i) any negligent act or omission or wilful misconduct of the Owner or any of the Owner's Personnel in connection with the observance and performance of the obligations of the Owner under this Agreement; or
  - (ii) any default in the due observance and performance of the obligations and responsibilities of the Owner under this Agreement.

**7.2 Nature of Indemnities.** The indemnities in this ARTICLE 7 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted in this Agreement.

**7.3 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 7.3(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 7.3(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 7.3(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 7.3(b).

- (c) Regardless of whether the claim is being defended under Section 7.3(a) or Section 7.3(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.

- 7.4 Survival of Release and Indemnities.** The release and indemnities in this ARTICLE 7 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 8 TRANSFER OF LANDS

- 8.1 Transfer of Lands.** The Owner covenants and agrees with the City that upon any sale, transfer or conveyance of the Lands charged by this Agreement, or any portion thereof (other than the transfer of an interest by way of mortgage, where the mortgagee has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage), to any person, trust, corporation, partnership or other entity, the Owner will obtain from such person, trust, corporation, partnership or entity and deliver to the City a duly executed acknowledgement, in form and substance satisfactory to the Director of Legal Services, of the terms of this Agreement and an assumption of the continuing obligations of the Owner pursuant to this Agreement relative to that portion of the Lands sold, transferred or conveyed to such person, trust, corporation, partnership or entity. Provided any such purchaser/transferee enters in to an assumption agreement as provided in this Section 8.1, the selling/transferring Owner shall not be bound by the continuing obligations of the Owner pursuant to this Agreement following such

sale, transfer or conveyance relative to that portion of the Lands sold, transferred or conveyed.

#### **ARTICLE 9 NOTICES**

- 9.1 Notice.** Any notice, approval or request required or permitted to be given under this Agreement will be in writing and may be given by delivering such notice, approval or request, or by mailing such notice, approval or request by prepaid registered mail from any post office in British Columbia or by personal delivery:

- (a) in the case of the Owner addressed to it at:

**Amacon Development (Robson) Corp.**  
#500 - 856 Homer Street  
Vancouver, British Columbia  
V6B 2W5

Attention: President

- (b) and in the case of the City addressed to it at:

**City of Vancouver**  
453 West 12<sup>th</sup> Avenue  
Vancouver, BC V5Y 1V4

Attention: City Clerk, with concurrent copies to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services.

or at such other address as the parties may from time to time advise by notice in writing. Any such notice, approval or request will be deemed to have been received on the date of delivery of such notice, approval or request, or on the third business day next following the date of such mailing if mailed as aforesaid, provided that if mailed should there be, between mailing and the actual receipt of such notice, approval or request, a mail strike, slowdown or other labour dispute which might affect the delivery of such notice, approval or request, such notice, approval or request will only be effective if actually delivered.

#### **ARTICLE 10 MISCELLANEOUS**

- 10.1 Agreement for Benefit of City.** The Owner and the City hereby acknowledge, agree and declare that this Agreement is entered into for the sole purpose of benefiting the City and, in particular, acknowledge, agree and declare that this Agreement is not designed to protect or promote the interests of the Owner or any mortgagee of the Owner, or any future owner or occupier of the Lands and any improvements on the Lands or any other person or corporation whatsoever, and the City may, at its sole option, execute a release of this Agreement at any time without liability to anyone for so doing.



- 10.2 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 whether by strata plan, subdivision plan or otherwise, except as otherwise set out in Article 3.
- 10.3 Amendments.** Any amendment to this Agreement will have no force or effect unless in writing and the City and the Owner have signed the amendments.
- 10.4 Assignment by City.** The City, upon prior written notice to the Owner, may assign all or any part of this Agreement to any governmental agency or to any corporation or entity charged with the responsibility for providing such public facilities and services as are contemplated by this Agreement; and the City may designate licensees and permittees for any and all purposes of this Agreement.
- 10.5 City Court Costs.** In an action to enforce this Agreement in respect of which the Court determines that the position of the City will prevail, the City will be entitled to court costs on a solicitor-client basis.
- 10.6 City's Other Rights Unaffected.** 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.
- 10.7 Damages Insufficient.** The Owner acknowledges that damages may be an inadequate remedy for the City for any breach by the Owner of its obligations under this Agreement and the Owner agrees that the City is entitled to seek and obtain an order for specific performance, injunctive relief (whether prohibitory, mandatory or otherwise) or other equitable relief in connection with any default by the Owner under this Agreement.
- 10.8 Entire Agreement.** This is the entire agreement between the City and the Owner concerning its subject and it may be changed only in a document executed by the City and the Owner.
- 10.9 Further Assurances.** The parties to this Agreement will do such things and execute such documents and in such form as may reasonably be necessary in order to perfect the intention of this Agreement.
- 10.10 Joint and Several.** Any covenants, agreements, conditions, or promises made by two or more persons shall be construed as joint as well as several, including any payments or compensation to be paid pursuant to this Agreement. If the Owner consists of more than one person, each such person will be jointly and severally liable to perform the Owner's obligations under this Agreement.
- 10.11 No Assignment.** The Owner shall not assign this Agreement or any of its rights or obligations hereunder except in strict accordance with this Agreement.

- 10.12 No Waiver.** No consent or waiver, expressed or implied, by the City of any default by the Owner in observing or performing its obligations under this Agreement will be effective unless given in writing, or be deemed or construed to be a consent or waiver of any other default. 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. Failure on the part of the City to complain of any act or failure to act by the Owner or to declare the Owner in default, irrespective of how long such failure continues, will not constitute a waiver by the City of its rights under this Agreement or at law or in equity. No waiver by the City of any breach of this Agreement operates as a waiver of any other breach of this Agreement.
- 10.13 Owner's Costs.** Unless otherwise provided, the Owner will be responsible for all costs and expenses incurred to comply with its obligations under this Agreement.
- 10.14 Owner's Duties as Occupier.** Nothing in this Agreement will abrogate or limit the Owner's duties and liability as occupier of the Lands.
- 10.15 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.
- 10.16 Registration.** The Owner agrees to cause the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:
- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
  - (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of the Rezoning or 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.

**10.17 Remedies Cumulative.** The remedies provided for in this Agreement will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City in this Agreement 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. No reference to nor exercise of any specific right or remedy under this Agreement or at law or in equity by the City will prejudice, limit or preclude the City from exercising any other such right or remedy. No such right or remedy will be exclusive or dependent upon any other such right or remedy, but the City may, from time to time, exercise any one or more of such rights or remedies independently, successively, or in combination.

**10.18 Severability.** If a court of competent jurisdiction finds that any provision contained in this Agreement is invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provisions of this Agreement which will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein and such other provisions will be binding and enforceable to the fullest extent permitted at law or in equity.

**10.19 Time of Essence.** Time will be of the essence of this Agreement. If either party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party.

**10.20 Enurement.** This Agreement will enure to the benefit of and will be binding upon the parties hereto and their respective successors, administrators and permitted assigns

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the General Instrument - Part 1 to which these Terms of Instrument - Part 2 are attached.

### CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) **“Existing Charges”** means collectively the Mortgage registered under number CA4311823, as extended by CA8951244, and the Assignment of Rents registered under number CA4311824, as extended by CA8951245;
- (b) **“Existing Chargeholder”** means THE BANK OF NOVA SCOTIA;
- (c) **“New Charges”** means the registrable charges and encumbrances created by and contained in the Terms of Instrument - Part 2 to which this Consent and Priority Instrument is attached; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the meaning ascribed to them in the Terms of Instrument - Part 2 to which this Consent and Priority Instrument is attached.

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

- (i) consents to the Owner granting the New Charges to the City; and
- (ii) 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 to which this Consent and Priority Instrument is attached.

END OF DOCUMENT

**EXPLANATION****Authorization to enter into a Housing Agreement  
Re: 1190 Burrard Street**

After a public hearing on July 6, 2021, Council approved in principle the land owner's application to rezone the above noted property from Downtown District (DD) to CD-1 (Comprehensive Development) District, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant, and the City now seeks enactment of a

By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services  
May 17, 2022

**BY-LAW NO.**

**A By-law to enact a Housing Agreement  
for 1190 Burrard 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:

015-484-181	THE SOUTH 1/2 OF LOT 15 BLOCK 90 DISTRICT LOT 541 PLAN 210
015-484-203	LOT 16 BLOCK 90 DISTRICT LOT 541 PLAN 210
015-484-211	LOT A (SEE 428984L) OF LOTS 17 TO 19 BLOCK 90 DISTRICT LOT 541 PLAN 210
015-484-238	LOT B (REFERENCE PLAN 1606) OF LOTS 17 TO 19 BLOCK 90 DISTRICT LOT 541 PLAN 210
015-484-220	LOT C (SEE 428984L) OF LOTS 17 TO 19 BLOCK 90 DISTRICT LOT 541 PLAN 210

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                      , 2022

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



Land Title Act

## Charge

General Instrument – Part 1

### 1. Application

**MIKE WALKER, Miller Thomson LLP**  
**400, 725 Granville Street**  
**Vancouver BC V7Y 1G5**  
**6046872242**

CLT Burrard File No. 0202846.0026  
Housing Agreement (part II doc no. 61223296)

### 2. Description of Land

PID/Plan Number	Legal Description
015-484-181	THE SOUTH 1/2 OF LOT 15 BLOCK 90 DISTRICT LOT 541 PLAN 210
015-484-203	LOT 16 BLOCK 90 DISTRICT LOT 541 PLAN 210
015-484-211	LOT A (SEE 428984L) OF LOTS 17 TO 19 BLOCK 90 DISTRICT LOT 541 PLAN 210
015-484-238	LOT B (REFERENCE PLAN 1606) OF LOTS 17 TO 19 BLOCK 90 DISTRICT LOT 541 PLAN 210
015-484-220	LOT C (SEE 428984L) OF LOTS 17 TO 19 BLOCK 90 DISTRICT LOT 541 PLAN 210

### 3. Nature of Interest

Type	Number	Additional Information
COVENANT		Section 219 Covenant Entire agreement

### 4. Terms

Part 2 of this instrument consists of:

**(b) Express Charge Terms Annexed as Part 2**

### 5. Transferor(s)

**CITY OF VANCOUVER**

### 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

Execution Date

Transferor / Transferee / Party Signature(s)

YYY-MM-DD  
2022-05-09

**CITY OF VANCOUVER**

By their Authorized Signatory

Name:

JEFFREY M. GREENBERG

WESLEY Y. L. CHAN  
453 WEST 12<sup>TH</sup> AVENUE  
VANCOUVER, B.C. V5Y 1V4  
BARRISTER & SOLICITOR

Name (Optional):

**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 / Transferee / Party Signature(s)

\_\_\_\_\_

YYY-MM-DD

**CITY OF VANCOUVER**

By their Authorized Signatory

Name:

Name (Optional):

**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.





Land Title Act  
**Charge**  
General Instrument – Part 1

\_\_\_\_\_  
**Name (Optional):**

**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

YYYY-MM-DD

\_\_\_\_\_  
Transferor / Transferee / Party Signature(s)

**CLT 0007 COMMUNITY SOCIETY**  
By their Authorized Signatory

\_\_\_\_\_  
**Tiffany Duzita**

**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

YYYY-MM-DD

\_\_\_\_\_  
Transferor / Transferee / Party Signature(s)

**PROVINCIAL RENTAL HOUSING CORPORATION**  
By their Authorized Signatory

\_\_\_\_\_  
**Name:**

\_\_\_\_\_  
**Name (optional):**

**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  
**Charge**  
General Instrument – Part 1

Witnessing Officer Signature

\_\_\_\_\_

Execution Date

YYYY-MM-DD

Transferor / Transferee / Party Signature(s)

**BRITISH COLUMBIA HOUSING  
MANAGEMENT COMMISSION**  
By their Authorized Signatory

\_\_\_\_\_  
**Name:**

\_\_\_\_\_  
**Name (optional):**

**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*, R.S.B.C. 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.

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

1190 BURRARD STREET

WHEREAS:

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

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

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

C. The Owner made an application to rezone the Lands from Downtown District (DD) to CD-1 (Comprehensive Development) District to allow construction of a 17-storey mixed use building with 154 social housing units, and after a public hearing to consider the rezoning application, the rezoning application was approved by City Council in principle subject to, *inter alia*, fulfilment of the following condition:

"2.5. *Make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability (or successor in function) and the Director of Legal Services (or successor in function) to enter into a Housing Agreement and Section 219 Covenant securing all dwelling units as social housing for the longer of 60 years and the life of the building, which will contain the following terms and conditions:*

- (a) *A no separate-sales covenant;*
- (b) *A no stratification covenant;*
- (c) *That the social housing units will be legally and beneficially owned by a non-profit corporation, or by or on behalf of the city, the Province of British Columbia, or Canada as a single legal entity and used only to provide rental housing for terms of not less than one month at a time and prohibiting the separate sale or transfer of legal or beneficial ownership of any such units;*
- (d) *Requiring such units to be used for "social housing", as that term is defined in the Vancouver Development Cost Levy By-law No. 9755;*
- (e) *Not less than 30 per cent of the social housing units will be occupied only by households with incomes below the then current applicable*

*Housing Income Limits, as set out in the current "Housing Income Limits" table published by the British Columbia Housing Management Commission, or equivalent publication, and each rented at a rate no higher than 30 per cent of the aggregate household income of the members of the household occupying such social housing unit; and*

- (f) *Such other terms and conditions at the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may in their sole discretion require."*

(the "Social Housing Condition"); and

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

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration (the receipt and sufficiency of which the parties hereby acknowledge and agree to) the Owner and the City, pursuant to Section 565.2 of the *Vancouver Charter* and to Section 219 of the *Land Title Act*, agree as follows in respect of the use of the Lands and the New Building:

#### ARTICLE 1 DEFINITIONS AND INTERPRETATIONS

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

- (a) "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 Permit" means a development permit issued by the City authorizing development on the Lands or any portion of the Lands as contemplated by the Rezoning at any time following the date this Agreement is fully executed by the parties;

- (h) **"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;
- (i) **"Dwelling Unit"** means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (j) **"General Manager of Planning, Urban Design and Sustainability"** means the chief administrator from time to time of the Planning, Urban Design and Sustainability Department of the City and his/her successors in function and their respective nominees;
- (k) **"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 Planning, Urban Design and Sustainability);
- (l) **"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;
- (m) **"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;
- (n) **"Losses"** means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (o) **"New Building"** means 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;
- (p) **"Occupancy Permit"** means a permit issued by the City authorizing the use and occupation of any New Building, development or partial development on the Lands;
- (q) **"Owner"** means the Transferor, CITY OF VANCOUVER, and any successors in title to the Lands or a portion of the Lands;
- (r) **"Rental Housing"** means a Dwelling Unit which is not occupied by the registered or beneficial owner of the same, but which is made available by

such owner to the general public (subject to Article 2), at arm's length, for use as rental accommodation on a month-to-month or longer basis in accordance with this Agreement, and pursuant to reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto;

- (s) **"Replacement Social Housing Unit"** has the meaning ascribed to that term in section 2.1(b) and **"Replacement Social Housing Units"** means all of such units;
- (t) **"Residential Tenancy Act"** means the Residential Tenancy Act S.B.C. 2002, c. 78, as may be amended or replaced from time to time;
- (u) **"Rezoning"** means the rezoning of the Lands as described in Recital C;
- (v) **"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 30% of the dwelling units are occupied by households with incomes below housing income limits, as set out in the current "Housing Income Limits" table published by the British Columbia Housing Management Commission, or equivalent publication;
  - (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;
- (w) **"Social Housing Condition"** has the meaning ascribed to that term in Recital C;
- (x) **"Social Housing Units"** has the meaning ascribed to that term in Section 2.1(b), and **"Social Housing Unit"** means any one of such Social Housing Units;
- (y) **"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
- (z) **"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 date the Form C General Instrument - Part 1 is fully executed and to subsequent amendments to or replacements of the statute or regulations.
- (f) Legislation. Any reference to a statute includes and is a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any statute and regulations that may be passed which have the effect of supplementing or superseding such statutes and regulations.
- (g) Time. Time shall be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time shall be local Vancouver, British Columbia time.

**ARTICLE 2  
RESTRICTIONS ON USE AND SUBDIVISION**

2.1 The Owner covenants and agrees that:

- (a) throughout the Term, the Lands and the New Building will not be used in any way that is inconsistent with the terms of this Agreement;

- (b) it will design, construct, equip and finish within the New Building such number of Dwelling Units as approved in the Development Permit, all of which will be for use only as Social Housing (the "Social Housing Units"), in accordance with the Development Permit, any building permit issued pursuant thereto and the requirements of this Agreement, and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit, then it will promptly take all steps reasonably necessary to enable it to repair the New Building or build a replacement building or buildings on the Lands, which repaired New Building or replacement building(s) will contain not less than the same number and type of replacement Social Housing Units as the New Building formerly contained (each such replacement Social Housing Unit hereinafter referred to as a "Replacement Social Housing Unit") and will be subject, for the duration of the Term, to the same use restrictions as the Social Housing Units and the New Building are pursuant to this Agreement;
- (c) throughout the Term the New Building will be used only in a manner that ensures its continued compliance with the definition of Social Housing;
- (d) throughout the Term, not less than 30% of the Social Housing Units will be:
  - (i) occupied only by households with incomes below the then current applicable HIL; and
  - (ii) each rented at a rate no higher than 30% of the aggregate household income of the members of the household occupying such Social Housing Unit;
- (e) throughout the Term, the Social Housing Units will only be used for the purpose of providing Rental Housing;
- (f) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any Social Housing Unit to be sold or otherwise transferred unless:
  - (i) every Social Housing Unit is sold or otherwise transferred together and as a block to the same legal and beneficial owner; and
  - (ii) the sale or transfer is to the City or it otherwise obtains the express written consent of the City;
- (g) throughout the Term, it will not suffer, cause or permit the Lands, or any part thereof, to be subdivided by strata plan or air space plan without the prior written consent of the City, which consent may be arbitrarily withheld;
- (h) throughout the Term, any sale or other transfer of title to a Social Housing Unit in contravention of the covenant in Section 2.1(f), and any subdivision of the Lands in contravention of Section 2.1(g), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of



any offending transfer of title or plan, as the case may be, at the Owner's expense;

- (i) throughout the Term, the Social Housing Units will only be rented on a month-to-month or longer basis and in no case for less than one month at a time;
- (j) throughout the Term, all of the Social Housing Units will be 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;
- (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 Planning, Urban Design and Sustainability, in form and substance satisfactory to the General Manager of Planning, Urban Design and Sustainability:
  - (i) proof of the insurance, or confirmation of self-insurance, consistent with the requirements of Section 2.1(k), is in force and effect;
  - (ii) a final rent roll confirming the rents to be charged to the first occupants, listed by unit bedroom type, of the Social Housing Units following issuance of the Occupancy Permit satisfy the requirements of Section 2.1(d); and
  - (iii) evidence the unit type mix and size of the constructed, equipped and finished Social Housing Units satisfy the requirements set out in the Development Permit; 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 Social Housing Units. Such records will be to the satisfaction of the City. At the request of the City, from time to time, the Owner will make such records available for inspection and copying by the City. The City will comply with the Owner's statutory obligations with respect to privacy of such information.

#### **ARTICLE 5 ENFORCEMENT**

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

#### **ARTICLE 6 RELEASE AND INDEMNITY**

- 6.1 Release and Indemnity. Subject to Section 3.2, the Owner hereby:

- (a) releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner and covenants and agrees to indemnify and save harmless the City and all City Personnel from and against all Losses which may arise, accrue or be incurred by the City or any City Personnel or which are made by any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to:
  - (i) by reason of the City or City Personnel:
    - A. withholding any permit pursuant to this Agreement; or
    - B. exercising any of its rights under any Section 219 covenant or other right granted to the City pursuant to this Agreement; or
  - (ii) that otherwise arise out of, or would not have been incurred but for this Agreement;

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel; and

- (b) covenants and agrees to indemnify and save harmless the City and City Personnel, from and against all Losses which may arise or accrue to any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to, by reason of:
  - (i) any negligent act or omission or wilful misconduct of the Owner or any of the Owner's Personnel in connection with the observance and performance of the obligations of the Owner under this Agreement; or
  - (ii) any default in the due observance and performance of the obligations and responsibilities of the Owner under this Agreement.

The indemnities in this ARTICLE 6 will be both personal covenants of the Owner (subject to Section 8.1) and integral parts of the Section 219 covenants granted in this Agreement.

**6.2 Conduct of Proceedings.**

- (a) In the event that a claim is made against the City which, pursuant to the terms of this Agreement, requires the Owner to indemnify the City or City Personnel, then the City will give notice of such claim to the Owner and, subject to Section 6.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 6.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 6.2(a) in the following circumstances:
  - (i) where the City Manager determines that the proper administration of the municipal government requires that decisions with respect to the claim be made by the City;
  - (ii) where the City Manager determines that the public interest requires that the matter be resolved in an open and public way; or
  - (iii) where, in the opinion of the City Manager, the claim is of a nature where decisions with respect to settling or defending it would create a precedent with respect to other existing or potential claims affecting or involving the City;

provided however that if the City wishes to settle any claim, the City will not do so without the prior consent of the Owner, which consent will not be unreasonably withheld. In conducting any defence or making any settlement, the City will act in a manner reasonably consistent with the manner in which the City would act in connection with the defence or settlement of claims, suits, demands, actions or proceedings which would not be indemnified against under the provisions of this Section 6.2(b); and

- (c) Regardless of whether the claim is being defended under Section 6.2(a) or Section 6.2(b), the party having conduct of the proceedings will, upon written request of the other party, provide to the other party all information in its possession relating to the proceedings which may be properly disclosed at law. If the party not having conduct of the proceedings so requests in writing in a timely fashion, the party having conduct of the proceedings will join the other party as a third party to the proceedings.

- 6.3 Survival of Release and Indemnities. The release and indemnities in this Article 6 will remain effective, and survive any modification of, or partial release or release of the covenants created by this Agreement, and any termination of this Agreement, whether by fulfilment of the covenants contained in this Agreement or otherwise.

#### ARTICLE 7 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 Planning, Urban Design and Sustainability and the Director of Legal Services

- (b) If to the Owner:

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

Attention: Director of Real Estate

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

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

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

## ARTICLE 8 MISCELLANEOUS

- 8.1 Agreement Runs With the Lands. The covenants and agreements set forth herein on the part of the Owner shall be covenants the burden of which shall run with and shall bind the Lands and shall attach thereto and run with each and every part into which the same may be subdivided or consolidated. Upon the sale or transfer of the legal or beneficial interest in the Lands, the parties agree that the covenants and agreements herein contained shall only be binding upon the transferring party in respect of a breach or acts or omissions occurring during its ownership of the Lands, and the transferring party shall otherwise be released from all covenants and agreements herein contained following such sale or transfer of the legal or beneficial interest in the Lands.
- 8.2 Agreement to be a First Charge. The Owner agrees to cause the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:
- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
  - (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of the Development Permit; and
  - (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.
- 8.3 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.

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## Consent and Priority Agreement

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For \$1.00 and other good and valuable consideration, CLT 0007 COMMUNITY SOCIETY, the registered holder of the following lease registered in the Vancouver/New Westminster Land Title Office:

Lease CA9656756

("Lease")

against title to the lands charged by the within charge, for themselves and their successors and assigns, hereby consent to the granting and registration of the within charge and grants priority to the within charge over the Lease and their rights, title and interest in and to the lands charged by the within charge in the same manner and to the same effect as if the within charge had been executed, delivered and registered prior to the execution, delivery and registration of the Lease and prior to the advance of any money under the Lease.

As evidence of its agreement to be bound by the terms of this instrument, the Prior Chargee has executed the Land Title Form C which is attached hereto and forms part of this Agreement.

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## Consent and Priority Agreement

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For \$1.00 and other good and valuable consideration, PROVINCIAL RENTAL HOUSING CORPORATION, the registered holder of the following option registered in the Vancouver/New Westminster Land Title Office:

Option to Purchase CA9764866  
of Lease CA9656756

("Option")

against title to the lands charged by the within charge, for themselves and their successors and assigns, hereby consent to the granting and registration of the within charge and grants priority to the within charge over the Option and their rights, title and interest in and to the lands charged by the within charge in the same manner and to the same effect as if the within charge had been executed, delivered and registered prior to the execution, delivery and registration of the Option and prior to the advance of any money under the Option.

As evidence of its agreement to be bound by the terms of this instrument, the Prior Chargee has executed the Land Title Form C which is attached hereto and forms part of this Agreement.



---

## Consent and Priority Agreement

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For \$1.00 and other good and valuable consideration, BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION, the registered holder of the following financial charges registered in the Vancouver/New Westminster Land Title Office:

Mortgage CA9764867  
Assignment of Rents CA9764868  
both of Lease CA9656756

("Security")

against title to the lands charged by the within charge, for themselves and their successors and assigns, hereby consent to the granting and registration of the within charge and grants priority to the within charge over the Security and their rights, title and interest in and to the lands charged by the within charge in the same manner and to the same effect as if the within charge had been executed, delivered and registered prior to the execution, delivery and registration of the Security and prior to the advance of any money under the Security.

As evidence of its agreement to be bound by the terms of this instrument, the Prior Chargee has executed the Land Title Form C which is attached hereto and forms part of this Agreement.

**EXPLANATION****Authorization to enter into a Housing Agreement  
Re: 1015 East Hastings Street**

After public hearings on February 11, 16, 23 and 24, and March 2 and 4, 2021, Council approved in principle the land owner's application to rezone the above noted property from M-1 (Industrial) District to CD-1 (Comprehensive Development) District, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant, and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services  
May 17, 2022

**BY-LAW NO.**

## A By-law to enact a Housing Agreement for 1015 East Hastings Street

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

1. Council authorizes the City to enter into a Housing Agreement with the owner of certain lands described as:

009-392-815

Lot C Block 63 District Lot 181 Plan 21524

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                      , 2022

Mayor

City Clerk



Land Title Act

## Charge

General Instrument – Part 1

### 1. Application

**Wesley Chan**  
**City of Vancouver**  
**453 West 12th Avenue**  
**VANCOUVER BC V5Y 1V4**  
**604-873-7501**

LS-21-00369-012  
1015 East Hastings Street  
Housing Agreement

### 2. Description of Land

PID/Plan Number

Legal Description

**009-392-815**

**LOT C BLOCK 63 DISTRICT LOT 181 PLAN 21524**

### 3. Nature of Interest

Type

Number

Additional Information

**COVENANT**

**Entire Instrument**

### 4. Terms

Part 2 of this instrument consists of:

**(b) Express Charge Terms Annexed as Part 2**

### 5. Transferor(s)

**CITY OF VANCOUVER**

### 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

Execution Date

Transferor / Transferee / Party Signature(s)

  
WESLEY Y. L. CHAN  
453 WEST 12<sup>TH</sup> AVENUE  
VANCOUVER, B.C. V5Y 1V4  
BARRISTER & SOLICITOR

YYYY-MM-DD  
  
2022-05-10

**CITY OF VANCOUVER**

(as Transferor)

By their Authorized Signatory

  
Grant Murray

**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 / Transferee / Party Signature(s)

\_\_\_\_\_

YYYY-MM-DD

**CITY OF VANCOUVER**

(as Transferee)

By their Authorized Signatory

\_\_\_\_\_

**Officer Certification**

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

**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.

\_\_\_\_\_

## TERMS OF INSTRUMENT - PART 2

HOUSING AGREEMENT AND BUILDING USE COVENANT  
(Rental and Social Housing)

1015 East Hastings Street

## WHEREAS:

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

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

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

C. The Owner made an application to rezone the Lands (the "Rezoning") from M-1 (Industrial) District to a CD-1 (Comprehensive Development) District to allow construction of a 15-storey mixed-use building containing 168 residential units in the form of 112 social housing units (25 with support services) and 56 secured market rental units, in addition to an 80-bed shelter with associated services and a social enterprise space, all with a focus on Indigenous peoples and families, and after a public hearing to consider the rezoning application, the rezoning application was approved by City Council in principle subject to, *inter alia*, fulfilment of the following condition:

"2.13 *Make arrangements to the satisfaction of the General Manager of Arts, Culture and Community Services and the Director of Legal Services to enter into a Housing Agreement and Section 219 Covenant for a term of the longer of 99 years and the life of the buildings to secure all the Dwelling Units as either social housing units or market rental housing units for the longer of 99 years and life of the building, which will contain the following terms and conditions:*

- (a) *a no separate-sales covenant is required;*
- (b) *a no stratification covenant is required;*
- (c) *a provision that none of such units will be rented for less than one month at a time;*
- (d) *a requirement that a minimum of 67% of all Dwelling Units in the building will 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:*

- (i) *not less than one-third of the Social Housing Units, will be occupied only by persons eligible for either Income Assistance or a combination of Old Age Security pension and the Guaranteed Income Supplement and rented at rental rates no higher than the shelter component of Income Assistance;*
- (ii) *for the remaining Social Housing Units will be for:*
  - (A) *one-third to be occupied only by households with incomes below the then current applicable Housing Income Limits, as set out in the current "Housing Income Limits" table published by the British Columbia Housing Management Commission, or equivalent publication, and each rented at a rate no higher than 30% of the aggregate household income of the members of the household occupying such Social Housing Unit; and*
  - (B) *the remaining third will be rented at affordable market rents;*
- (e) *A requirement that the occupants of not less than 25 of the Social Housing Units be provided with supportive services, being access to on-site services including meals, training, education and health and wellness;*
- (f) *A requirement that the remaining 33% of Dwelling Units be secured as being used for the purpose of rental housing;*
- (g) *A requirement that all the buildings in the development, including the Dwelling Units, are contained within a single 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*
- (h) *Such other terms and conditions as the General Manager of Arts, Culture and Community Services and the Director of Legal Services may in their sole discretion require.*

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

*Note to Applicant: If the applicant requests a DCL Waiver at the development permit application stage, an amendment to or replacement of the Housing Agreement will be required to include provisions to secure compliance of the development with the DCL By-law, to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services"*

*(the "Social Housing Condition"); and*

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

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration (the receipt and sufficiency of which the parties hereby acknowledge and agree to) the Owner and the City, pursuant to Section 565.2 of the *Vancouver Charter* and to Section 219 of the *Land Title Act*, agree as follows in respect of the use of the Lands and the New Building:

#### ARTICLE 1 DEFINITIONS AND INTERPRETATIONS

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

- (a) **"Affordable Market Rents"** means the average market rents posted by Canada Mortgage and Housing Corporation applicable to the location of the Lands, provided that such rents do not exceed 90% of: (i) the appraised market rent for a comparable unit in the local area (where a "comparable unit" means a Dwelling Unit of the same type, similar size and in a building with a similar age and quality of construction); or (ii) in the absence of such comparable units in the local area, the market rent for a comparable unit as set out in CMHC's Rental Survey for Vancouver by year of construction, 2005+ category, or if such survey is not available, such other survey or publication approved by the General Manager of Arts, Culture and Community Services in his or her sole discretion, and, the during the term of the PRHC Lease, or as long as an Operator Agreement in place, as mutually agreed upon between the General Manager of Arts, Culture and Community Services and the Commission;
- (b) **"Agreement"** means this housing agreement and building use covenant, including the foregoing Recitals;
- (c) **"City"** and **"City of Vancouver"** are defined in Recital A(ii);
- (d) **"City Manager"** means the chief administrator from time to time of the City and his/her successors in function and their respective nominees;
- (e) **"City Personnel"** means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (f) **"Commencement Date"** means the date as of which this Agreement has been submitted to the Land Title Office;
- (g) **"Commission"** means British Columbia Housing Management Commission or its successor(s) in function;
- (h) **"Development"** means the development on the Lands described in Recital C as contemplated by the Rezoning;



- (i) **"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 Rezoning at any time following the date this Agreement is fully executed by the parties;
- (j) **"Director of Legal Services"** means the chief administrator from time to time of the Legal Services Department of the City and her/his successors in function and their respective nominees;
- (k) **"Dwelling Unit"** means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (l) **"Eligible Occupant"** means a person who, during the time that such person is an occupant in the Social Housing Units, meets the criteria prescribed in this Agreement and an Operator Agreement or prescribed in a separate document provided by the Commission and delivered to the Operator from time to time;
- (m) **"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;
- (n) **"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;
- (o) **"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 Commission, or its successor 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 in his or her sole discretion, and, the during the term of the PRHC Lease, or as long as an Operator Agreement in place, as mutually agreed upon between the General Manager of Arts, Culture and Community Services and the Commission;
- (p) **"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;
- (q) **"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;
- (r) **"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;

- (s) "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;
- (t) "Market Rental Housing" means Rental Housing that is rented at market rental rates;
- (u) "Market Rental Housing Units" has the meaning ascribed to that term in Section 2.1(b)(ii) and "Market Rental Housing Unit" means any one of such Market Rental Housing Units;
- (v) "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;
- (w) "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;
- (x) "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;
- (y) "Operator" means a non-profit organization that has entered into an Operator Agreement, or other agreement, with the Commission for the operation and management of the Social Housing Units;
- (z) "Operator Agreement" means the operator agreement entered into or to be entered into between the Operator and the Commission that relates to the operation and management of the Social Housing Units and the provision of housing to Eligible Occupants;
- (aa) "Owner" means the Transferor, CITY OF VANCOUVER, and any successors in title to the Lands or a portion of the Lands;
- (bb) "PRHC" means Provincial Rental Housing Corporation;
- (cc) "PRHC Lease" means the sixty (60) year lease to be entered into between the Owner, as lessor, and PRHC, as lessee for the Social Housing Units;
- (dd) "Rental Housing" means a Dwelling Unit which is not occupied by the registered or beneficial owner of the same, but which is made available by such owner to the general public, at arms length, for use as rental accommodation on a month-to-month or longer basis in accordance with this Agreement, and pursuant to reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto;

- (ee) **"Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(b), and **"Rental Housing Unit"** means any one of such Rental Housing Units;
- (ff) **"Residential Tenancy Act"** means the Residential Tenancy Act S.B.C. 2002, c. 78, as may be amended or replaced from time to time;
- (gg) **"Rezoning"** means the rezoning of the Lands as described in Recital C;
- (hh) **"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;
- (ii) **"Social Housing Condition"** has the meaning ascribed to that term in Recital C;
- (jj) **"Social Housing Units"** has the meaning ascribed to that term in Section 2.1(b)(i), and **"Social Housing Unit"** means any one of such Social Housing Units;
- (kk) **"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) 99 years from the date when the final Occupancy Permit is issued for the New Building; and
- (ll) **"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 date the Form C General Instrument - Part 1 is fully executed and to subsequent amendments to or replacements of the statute or regulations.
- (f) Legislation. Any reference to a statute includes and is a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any statute and regulations that may be passed which have the effect of supplementing or superseding such statutes and regulations.
- (g) Time. Time shall be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time shall be local Vancouver, British Columbia time.

## ARTICLE 2 RESTRICTIONS ON USE AND SUBDIVISION

### 2.1 The Owner covenants and agrees that:

- (a) throughout the Term, the Lands and the New Building will not be used in any way that is inconsistent with the terms of this Agreement;
- (b) it will design, construct, equip and finish within the New Building such number of Dwelling Units as approved in the Development Permit, and:

- (i) 67% of such Dwelling Units will be for use only as Social Housing (the “Social Housing Units”); and
  - (ii) the balance of the Dwelling Units will be for use only as Market Rental Housing (the “Market Rental Housing Units”),
- (collectively, the “Rental Housing Units”)

all in accordance with the Development Permit, any building permit issued pursuant thereto and the requirements of this Agreement, and if the New Building is damaged, destroyed or demolished before the 99 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 and Rental Housing Units 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, Market Rental Housing 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:
  - (i) not less than one-third of the Social Housing Units, will be occupied only by persons eligible for either Income Assistance or a combination of Old Age Security pension and the Guaranteed Income Supplement and rented at rental rates no higher than the shelter component of Income Assistance;
  - (ii) the rents and affordability for the remaining Social Housing Units will be for:
    - A. not less than one-third of the Social Housing Units to be occupied only by households with incomes below the then current applicable HIL and each rented at a rate no higher than 30% of the aggregate household income of the members of the household occupying such Social Housing Unit; and
    - B. the remaining Social Housing Units to be rented at Affordable Market Rents; and
  - (iii) not less than twenty-five (25) of the Social Housing Units will be provided with on-site supportive services, such as, meals, training, education and health and wellness services;
- (e) throughout the Term, the Rental Housing Units will only be used for the purpose of providing Rental Housing;

- (f) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any Rental 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;
- (g) throughout the Term, it will not suffer, cause or permit the Lands, or any part thereof, to be subdivided by strata plan or air space plan without the prior written consent of the City, which consent may be arbitrarily withheld;
- (h) throughout the Term, any sale or other transfer of title to a Rental Housing Unit in contravention of the covenant in Section 2.1(f), and any subdivision of the Lands in contravention of Section 2.1(g), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (i) throughout the Term, 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;
- (j) throughout the Term, the New Building including all of the Rental Housing Units will be a single legal parcel and owned by a non-profit corporation, a non-profit co-operative association, or by or on behalf of the City, the Province of British Columbia or Canada;
- (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 Social Housing Units following issuance of the Occupancy Permit on either a per unit or a per square foot basis, and the unit type mix and size, which rents, unit type mix and size will comply with those applicable to the Social Housing Units; and
- (b) the City will be under no obligation to issue any Occupancy Permit 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 4.1(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 Social Housing Units. Such records will be to the satisfaction of the City. At the request of the City, from time to time, the Owner will make such records available for inspection and copying by the City. The City will comply with the Owner's statutory obligations with respect to privacy of such information.

#### **ARTICLE 5 ENFORCEMENT**

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

#### **ARTICLE 6 RELEASE AND INDEMNITY**

- 6.1 Release and Indemnity. Subject to Section 3.2, the Owner hereby:
- (a) releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner and covenants and agrees to indemnify and save harmless the City and all City Personnel from and against all Losses which may arise, accrue or be incurred by the City or any City Personnel or which are made by any person, firm or corporation against the

City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to:

- (i) by reason of the City or City Personnel:
  - A. withholding any permit pursuant to this Agreement; or
  - B. exercising any of its rights under any Section 219 covenant or other right granted to the City pursuant to this Agreement; or
- (ii) that otherwise arise out of, or would not have been incurred but for this Agreement;

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel, except to the extent that any such Losses are the result of gross negligence or wrongful intentional acts on the part of the City or any City Personnel; and

- (b) covenants and agrees to indemnify and save harmless the City and City Personnel, from and against all Losses which may arise or accrue to any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to, by reason of:

- (i) any negligent act or omission or wilful misconduct of the Owner or any of the Owner's Personnel in connection with the observance and performance of the obligations of the Owner under this Agreement; or
- (ii) any default in the due observance and performance of the obligations and responsibilities of the Owner under this Agreement,

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 any such Losses are the result of gross negligence or wrongful intentional acts on the part of the City or any 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:

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

Attention: Director of Real Estate

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

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

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

#### ARTICLE 8 MISCELLANEOUS

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

- (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.
- 8.3 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.

END OF DOCUMENT