

EXPLANATION

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

Following the Public Hearing on June 14, 2022, Council gave conditional approval to the rezoning of the site at 4408-4488 Fraser Street and 707-709 East 29th 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
April 25, 2023

4408-4488 Fraser Street and
707-709 East 29th Avenue

BY-LAW NO.

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

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

Zoning District Plan Amendment

1. This by-law amends the Zoning District Plan attached as Schedule D to By-law No. 3575, and amends or substitutes the boundaries and districts shown on it, according to the amendments, substitutions, explanatory legends, notations, and references shown on the plan attached as Schedule A to this by-law, and incorporates Schedule A into Schedule D of By-law No. 3575.

Designation of CD-1 District

2. The area shown within the heavy black outline on Schedule A is hereby designated CD-1 (850).

Uses

3. Subject to Council approval of the form of development, to all conditions, guidelines and policies adopted by Council, and to the conditions set out in this by-law or in a development permit, the only uses permitted within CD-1 (850) and the only uses for which the Director of Planning or Development Permit Board will issue development permits are:

- (a) Cultural and Recreational Uses;
- (b) Dwelling Uses, limited to Multiple Dwelling;
- (c) Institutional Uses;
- (d) Office Uses;
- (e) Retail Uses;
- (f) Service Uses;
- (g) Utility and Communication Uses; and
- (h) Accessory Uses customarily ancillary to the uses permitted in this section.

Conditions of Use

4.1 The design and layout of at least 35% of the total number of dwelling units must:

- (a) be suitable for family housing; and
- (b) include two or more bedrooms.

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

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

- (a) display of flowers, plants, fruits and vegetables in conjunction with a permitted use;
- (b) farmers' market;
- (c) neighbourhood public house;
- (d) public bike share; and
- (e) restaurant.

4.4 The Director of Planning may vary the use conditions of section 4.3 to permit the outdoor display of retail goods, and may include such other conditions as the Director of Planning deems necessary, having regard to the types of merchandise, the area and location of the display with respect to adjoining sites, the hours of operation and the intent of this by-law.

Floor Area and Density

5.1 Computation of floor area must assume that the site area is 2,230.6 m², being the site area at the time of the application for the rezoning evidenced by this by-law, prior to any dedications.

5.2 The floor space ratio for all uses combined must not exceed 3.65.

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

5.4 Computation of floor area must exclude:

- (a) balconies and decks and any other appurtenances which, in the opinion of the Director of Planning, are similar to the foregoing, except that:
 - (i) the total area of these exclusions must not exceed 12% of the floor area being provided for dwelling uses, and
 - (ii) the balconies must not be enclosed for the life of the building;
- (b) patios and roof decks, if the Director of Planning first approves the design of sunroofs and walls;

- (c) where floors are used for off-street parking and loading, the taking on or discharging of passengers, bicycle storage, heating and mechanical equipment, or uses which in the opinion of the Director of Planning are similar to the foregoing, those floors or portions thereof so used that are at or below base surface, except that the exclusion for a parking space must not exceed 7.3 m in length;
- (d) amenity areas accessory to a residential use, to a maximum of 10% of the total floor area being provided for dwelling uses; and
- (e) all residential storage area above or below base surface, except that if residential storage area above base surface exceeds 3.7 m² for a dwelling unit, there will be no exclusion for any of the residential storage area above base surface for that unit.

Building Height

6.1 Building height, measured from base surface, must not exceed 21.6 m.

6.2 Despite the provisions of section 6.1 of this by-law and of section 10.18 of the Zoning and Development By-law, the Director of Planning may permit a greater height than otherwise permitted for roof appurtenances such as stairs and elevators for roof-top access, elevator machine rooms, mechanical screens and trellises or shading structures that are part of a rooftop outdoor amenity space, if the Director of Planning first considers:

- (a) siting and sizing in relation to views, overlook, shadowing, and noise impacts; and
- (b) all applicable policies and guidelines adopted by Council.

Horizontal Angle of Daylight

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

7.2 The location of each such exterior window must allow a plane or planes extending from the window and formed by an angle of 50 degrees, or two angles with a sum of 70 degrees, to encounter no obstruction over a distance of 24.0 m.

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

7.4 The Director of Planning or Development Permit Board may relax the horizontal angle of daylight requirement if:

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

7.5 An obstruction referred to in section 7.2 means:

Schedule A



EXPLANATION**A By-law to amend the City Land Regulation By-law No. 8735
Regarding Consumption of Liquor on City Land (2023)**

The attached By-law will implement Council's resolution of April 11, 2023 to amend the City Land Regulation By-law regarding the designation of areas of City land where liquor may be consumed.

Director of Legal Services
April 25, 2023

BY-LAW NO. _____

**A By-law to amend the City Land Regulation By-law No. 8735
Regarding Consumption of Liquor on City Land (2023)**

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

1. This by-law amends the indicated provisions of the City Land Regulation By-law.
2. Council strikes out sections 4C(b) and 4C(c) and substitutes the following:
 - “(b) from May 15, 2023 to October 16, 2023, between the hours of 11:00 am and 9:00 pm; and
 - (c) except for designated area 1, from October 17, 2023 to May 14, 2024, between the hours of 11:00 am to 5:00 pm.”.
3. Council strikes out Schedule 1 and substitutes a new Schedule 1 as attached to this by-law as Appendix A.
4. This by-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2023

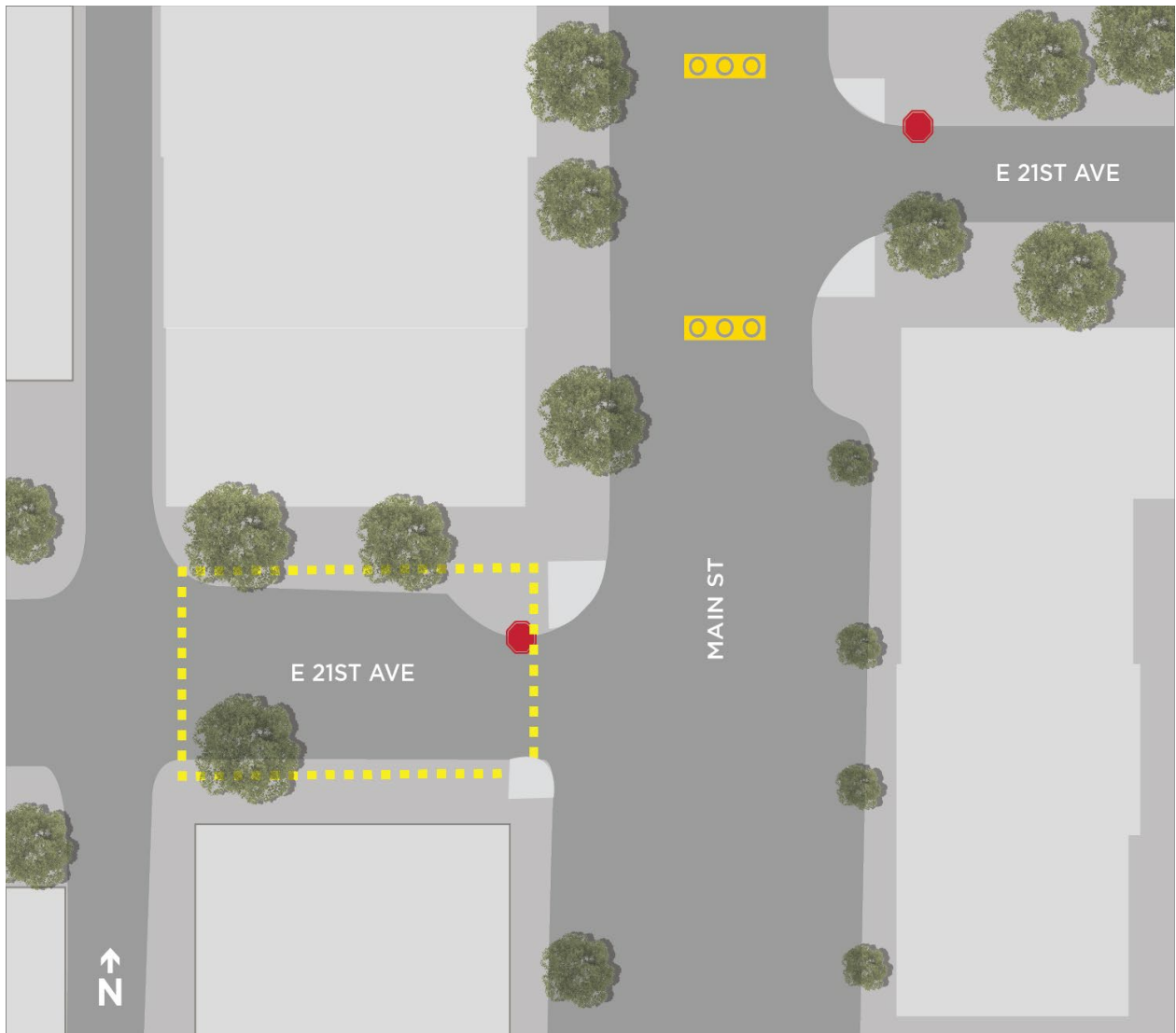
Mayor

Acting City Clerk

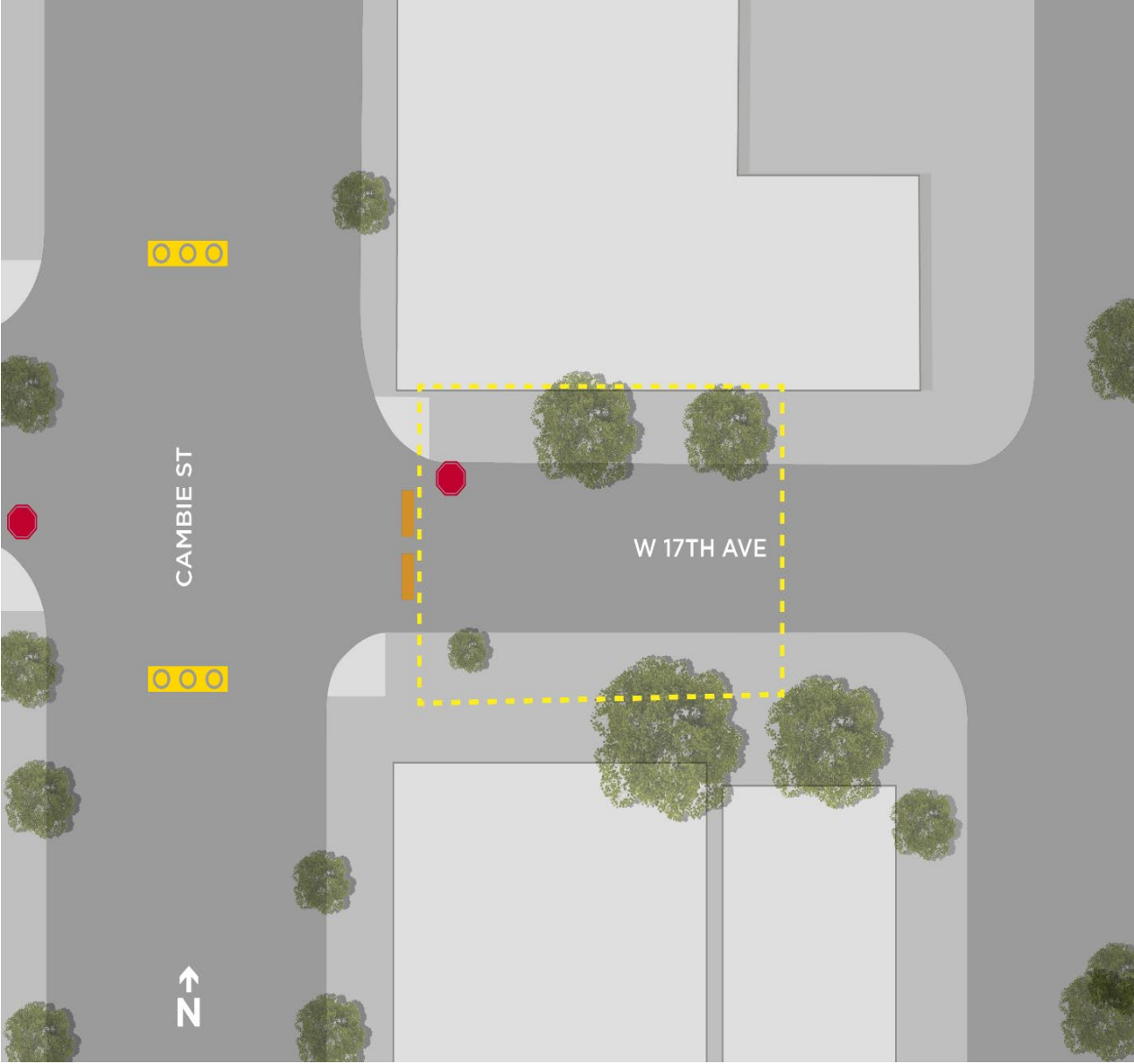
APPENDIX A

Schedule I City Land Where Liquor May be Consumed

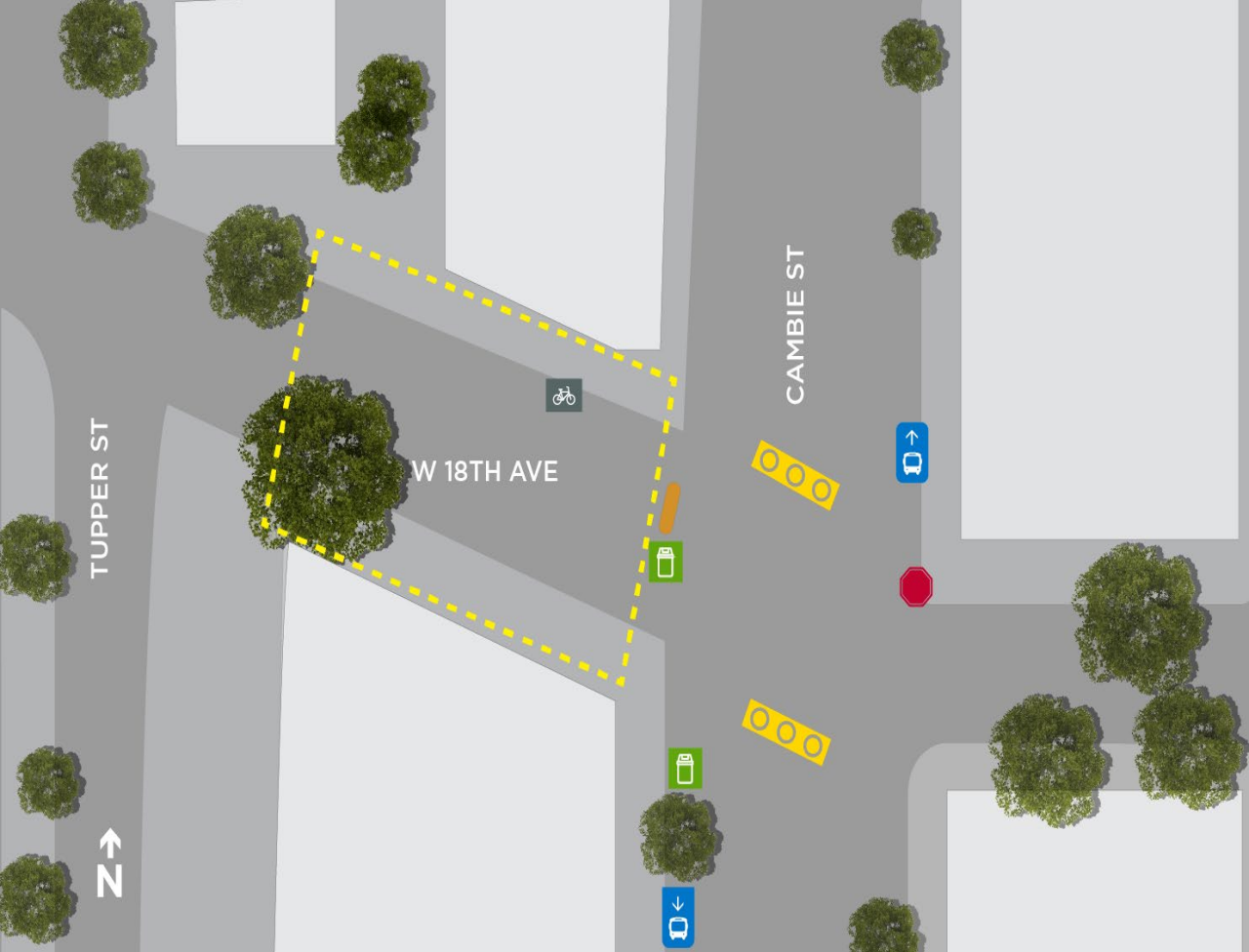
Designated area 1



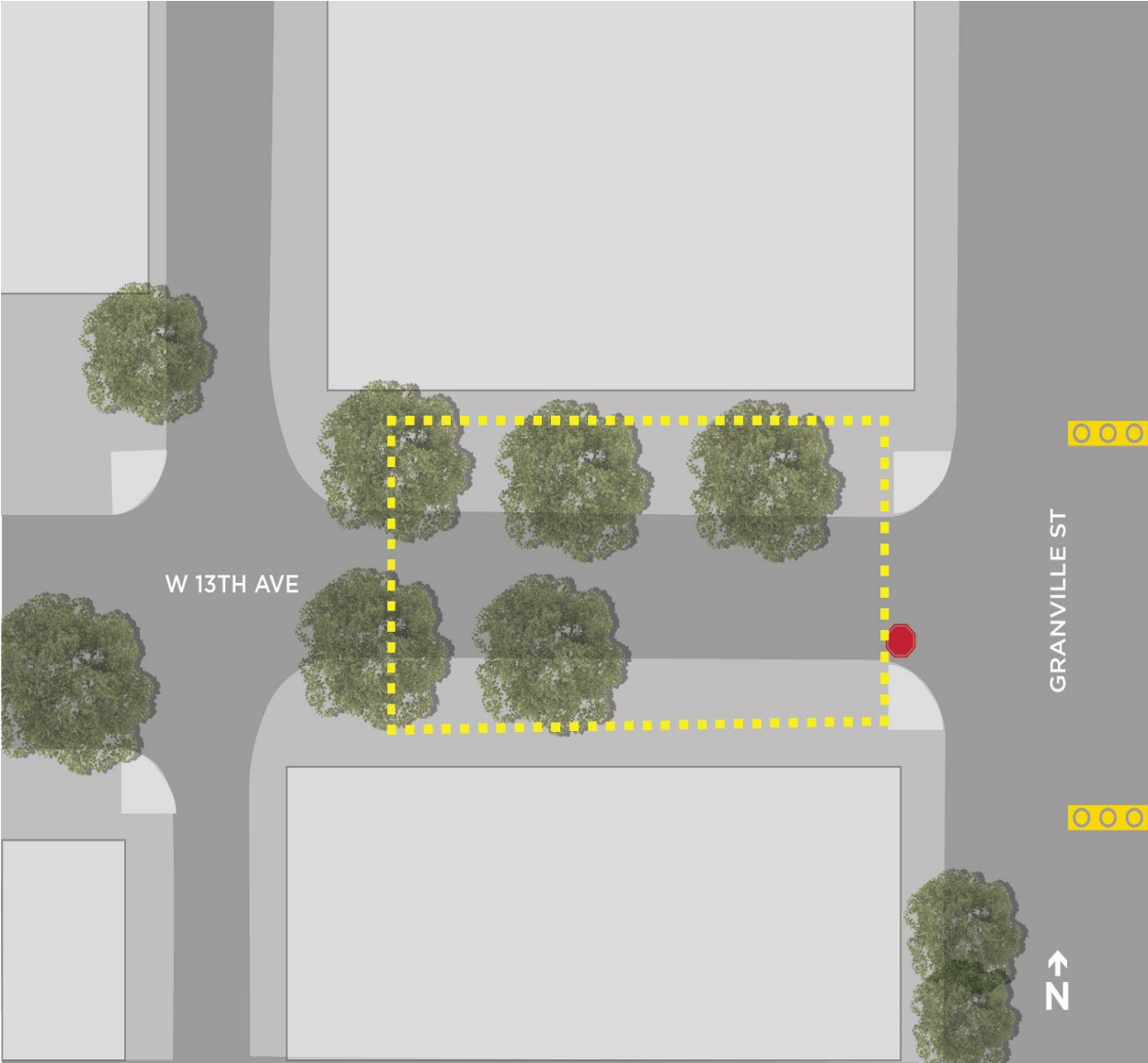
Designated area 2



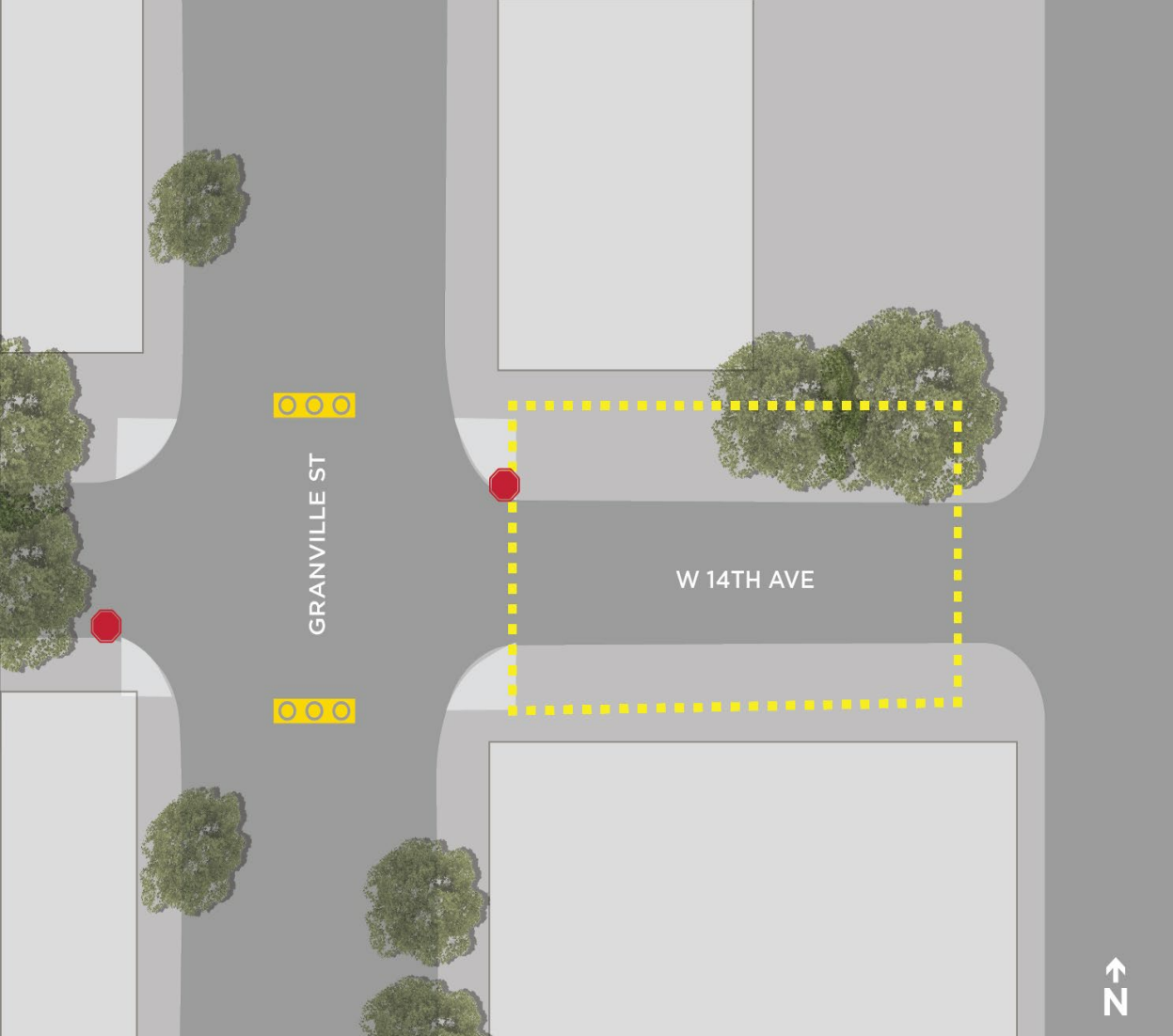
Designated area 3



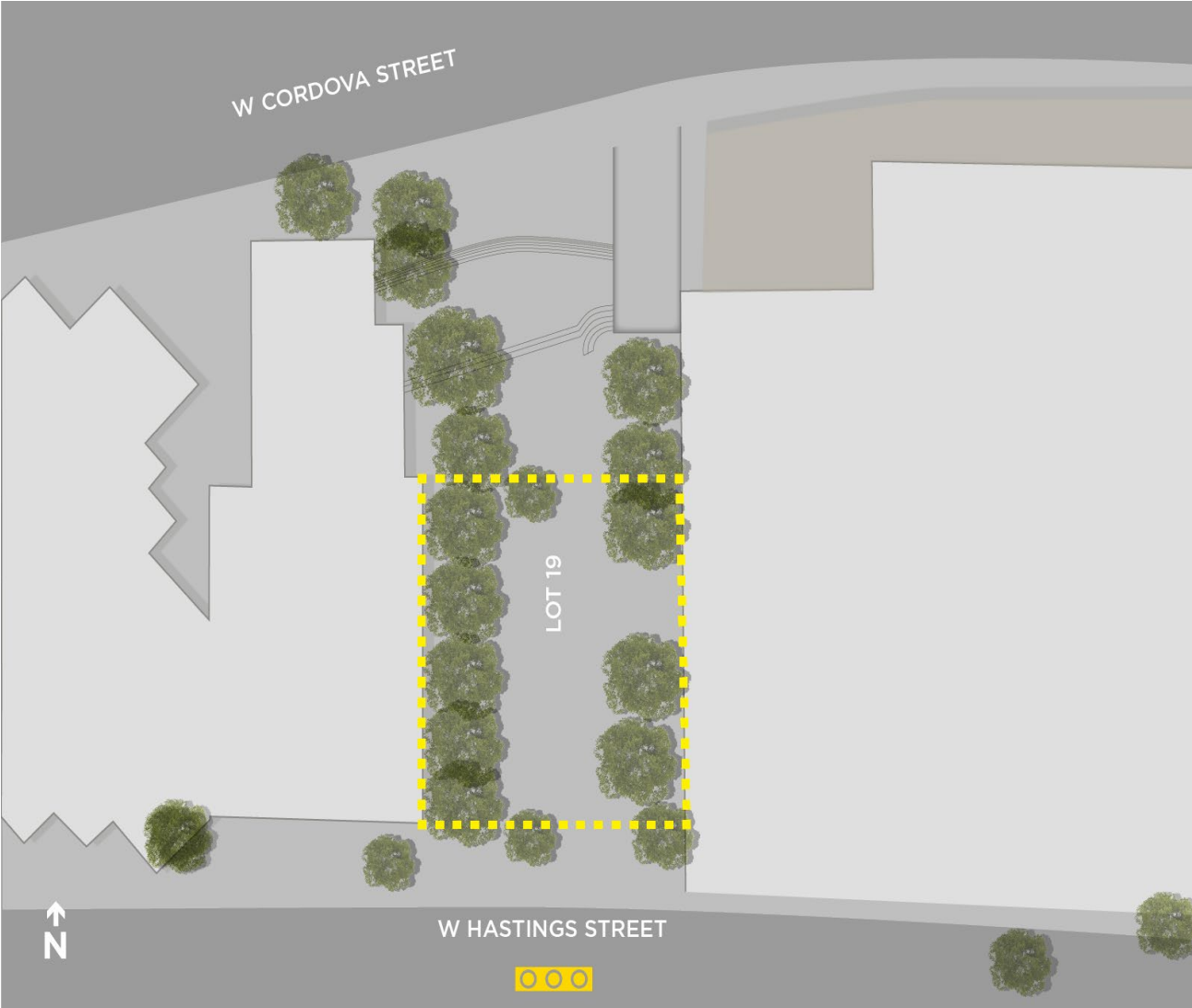
Designated area 4



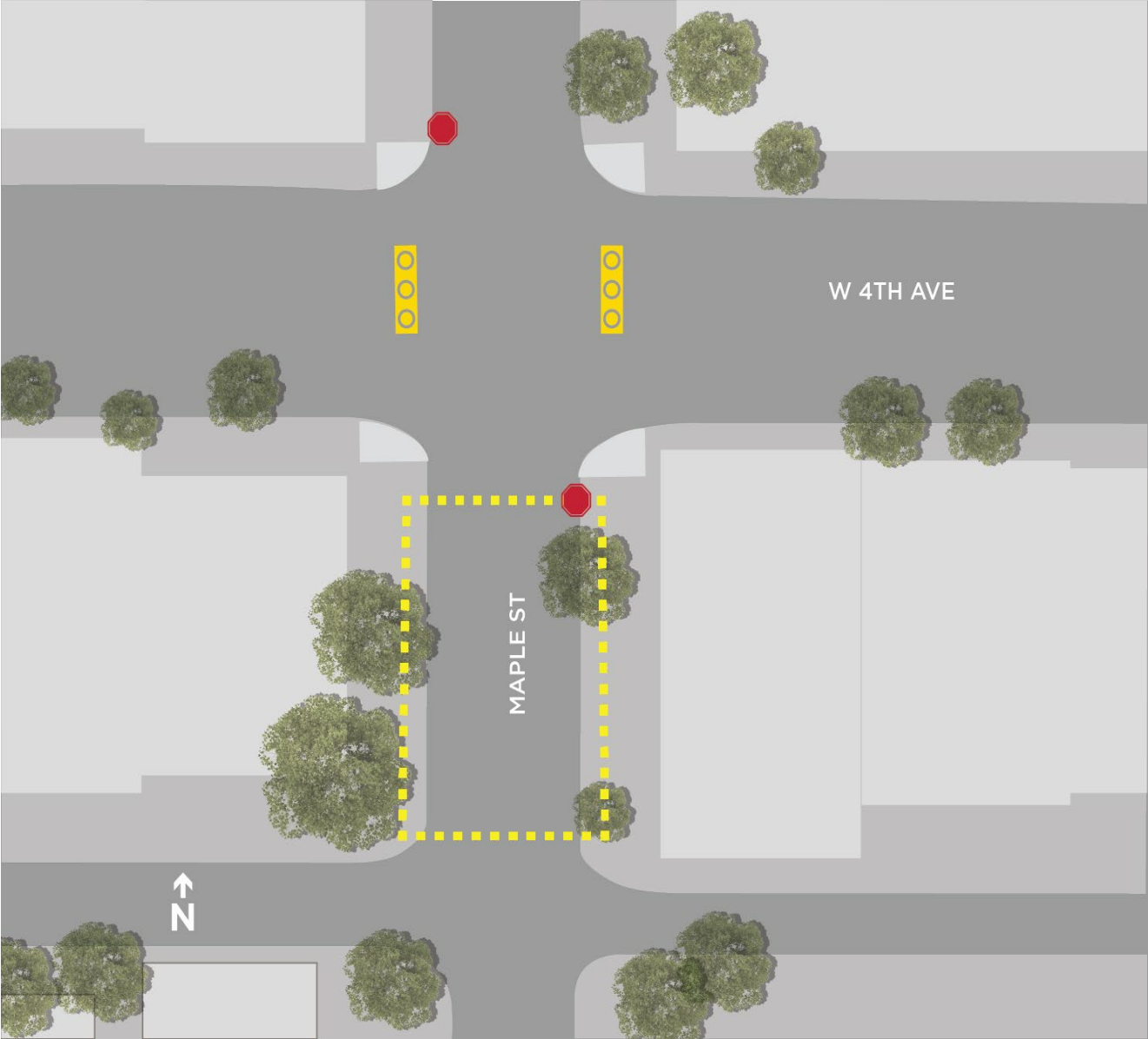
Designated area 5



Designated area 6



Designated area 7



EXPLANATION

**A By-law to amend
Zoning and Development By-law No. 3575**

Enactment of the attached by-law will implement Council's resolutions of April 13, 2023 to amend the Zoning and Development By-law regarding housekeeping amendments.

Director of Legal Services
April 25, 2023

BY-LAW NO. _____

A By-law to amend Zoning and Development By-law regarding miscellaneous amendments

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.
2. In section 2, in the definition of “Partial Storey”, Council adds “is” before “limited”.
3. In section 4.8.1(j), Council strikes out “the Health By-law” and substitutes “the Animal Control By-law”.
4. In section 5.2.6, Council strikes out “side” and substitutes “site”.
5. In the RS-1 District Schedule, Council:
 - (a) in section 4.2.1, strikes out “building height in this district” and substitutes “the height of any building located within the building depth prescribed in this district”; and
 - (b) in section 4.5.2, strikes out “section 4.3.1 in this schedule” and substitutes “Section 10 of this by-law”.
6. In section 4.2.1 of the RS-3 and RS-3A Districts Schedule, Council strikes out “Building height in this district” and substitutes “Despite the definition of “building height” in Section 2 of this by-law, the height of any building located within the building depth prescribed in these districts”.
7. In the RS-5 District Schedule, Council:
 - (a) in section 4.2.1, strikes out “Building height in this district” and substitutes “Despite the definition of “building height” in Section 2 of this by-law, the height of any building located within the building depth prescribed in this district”; and
 - (b) in section 3.1.1.1(f)(i), strikes out “converting a character house to a multiple conversion dwelling” and substitutes “an addition to a character house”.
8. In section 3.1.2.10(a) of the RS-6 District Schedule, Council strikes out “45%” and substitutes “40%”.
9. In the RS-7 District Schedule, Council:
 - (a) in section 4.5.2.7(a)(iii), strikes out “above the horizontal datum plane”; and
 - (b) in section 3.2.1.1(d)(i), strikes out “converting a character house to a multiple conversion dwelling” and substitutes “an addition to a character house”.
10. In section 3.2.2.7 of the RT-5 and RT-5N Districts Schedule, Council:
 - (a) in subsection (a), adds “either” before “another single detached house”;
 - (b) renumbers subsection (b) as subsection (c); and
 - (c) adds a new subsection (b) as follows:

“

(b) single detached house or single detached house with secondary suite	35% of the site depth
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”

11. In the RT-6 District Schedule, Council:

- (a) in section 3.2.2.1(c), adds “either” before “another single detached house”; and
- (b) in section 3.2.2.7(b), strikes out “another single detached house or single detached house with secondary suite” and substitutes “either another single detached house or a single detached house with secondary suite”.

12. In the Table in section 2.1 of the RM-10 and RM-10N Districts Schedule, in the entry for “Residential Unit Associated with and forming an integral part of an Artist Studio”, Council strikes out “before Seniors Supportive or Assisted Housing”.

13. In the RR-2A, RR-2B and RR-2C Districts Schedule, Council:

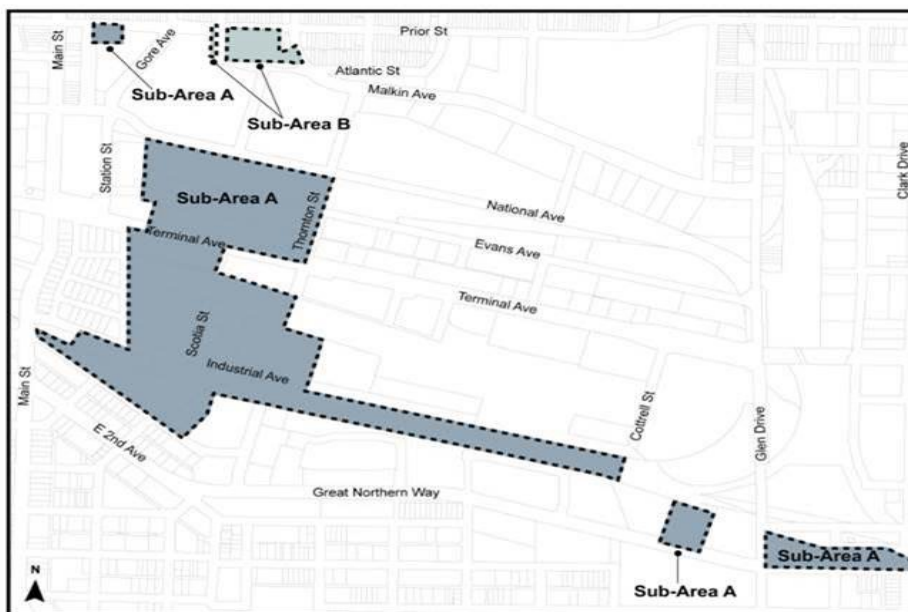
- (a) in section 3.1.1.2(b)(i), adds “or is a double-fronting site” after “at the rear”; and
- (b) in section 3.1.1.3(b)(i), adds “or is a double-fronting site” after “at the rear”.

14. In section 3.1.1.2(a) of the RR-3A and RR-3B Districts Schedule, Council adds “or is a double-fronting site” after “at the rear”.

15. In section 2.2.15 of the HA-3 District Schedule, Council strikes out “restaurant class – 2” and substitutes “restaurant – class 2”.

16. In the I-3 District Schedule, Council strikes out Map 1 and substitutes the following map:

“



LEGEND
 ■ Sub-Area A ■ Sub-Area B - - I-3 Boundary



”

17. In Schedule E, Council:

- (a) in the Introduction, and Parts I, II, and III, strikes out “Schedule” wherever it appears and substitutes “schedule”;
- (b) in the Introduction, strikes out the square brackets at the beginning and end of the third paragraph;
- (c) in Part II:
 - (i) strikes out “By-law” wherever it appears and substitutes “by-law”,
 - (ii) in the section titled “Nelson Street, north side, between Cambie Street and Beatty Street”, strikes out “metre” and substitutes “m”,
 - (iii) strikes out “metres” wherever it appears and substitutes “m”,
 - (iv) strikes out “the building line shall be” wherever it appears and substitutes “the building line is”,
 - (v) strikes out “it shall be unlawful” wherever it appears and substitutes “it will be unlawful”,
 - (vi) strikes out “shall also apply to” wherever it appears and substitutes “will also apply to”,
 - (vii) strikes out “shall not have been commenced” wherever it appears and substitutes “has not been commenced”,
 - (viii) in the section titled “Broadway, south side, from Cambie Street to Quebec Street”, strikes out “shall govern” and substitutes “will govern”, and
 - (ix) in the section titled “Building lines for lane purposes between 8th Avenue and Broadway, from 150 feet east of the easterly limit of Birch Street to a point west of Ash Street”, strikes out “The building lines shall be” and substitutes “The building lines are”; and
- (d) in Part III, strikes out “The following lands shall be subject to a building line for the maintenance of open space which shall be as described in” and substitutes “The following lands are subject to a building line for the maintenance of open space which is as described in”.

18. In Schedule F, Council strikes out “RM-9A and RM-9A/N” and substitutes “RM-9A and RM-9AN”.

19. In the First Shaughnessy District Schedule, Council:

- (a) strikes out “this District Schedule” wherever it appears and substitutes “this schedule”;
- (b) strikes out “this Schedule” wherever it appears and substitutes “this schedule”;
- (c) strikes out “all applicable policies and guidelines adopted by Council” wherever it appears and substitutes “all applicable Council policies and guidelines”;
- (d) in section 1, strikes out “single-family character” and substitutes “single detached character”;
- (e) in section 2, in the definition of “Coach House”, strikes out “one family dwelling, one family dwelling with secondary suite” and substitutes “single detached house, single detached house with secondary suite”;
- (f) in section 3.1, strikes out “any of the uses listed in Section 3.2 of this Section” and substitutes “any of the uses listed in section 3.2 of this section”;

- (g) in section 3.2.DW:
 - (i) strikes out “One Family Dwelling” and substitutes “Single Detached House”,
 - (ii) strikes out “One Family Dwelling with Secondary Suite” and substitutes “Single Detached House with Secondary Suite”, and
 - (iii) strikes out “Infill one-family and infill two-family dwelling” and substitutes “Infill Single Detached House and Infill Duplex”;
- (h) in section 4.3.3(a), adds the word “Council” before “policies and guidelines”;
- (i) in section 4.7.4(g), strikes out “subsection” and substitutes “section”;
- (j) in section 4.8.1(b), strikes out “infill one family dwelling or infill two-family dwelling” and substitutes “infill single detached house or infill duplex”;
- (k) strikes out section 4.8.2;
- (l) renumbers section 4.8.3 as 4.8.2; and
- (m) in section 4.16.2, strikes out “that permitted under sections 4.4.2” and substitutes “that are permitted under section 4.4.2”.

20. 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.

21. This by-law is to come into force and take effect upon enactment.

ENACTED by Council this _____ day of _____, 2023

Mayor

Acting City Clerk

EXPLANATION**A By-law to amend the Downtown-Eastside/Oppenheimer
Official Development Plan By-law No. 5532
regarding housekeeping amendments**

Enactment of the attached by-law will implement Council's resolution of April 13, 2023 to amend the Downtown-Eastside/Oppenheimer Official Development Plan By-law regarding housekeeping amendments.

Director of Legal Services
April 25, 2023

EXPLANATION

A By-law to amend the Sewer and Watercourse By-law No. 8093 regarding housekeeping amendments.

Enactment of the attached by-law will implement Council's resolution of April 13, 2023 to amend the Sewer and Watercourse By-law regarding housekeeping amendments.

Director of Legal Services
April 25, 2023

BY-LAW NO. ____

**A By-law to amend the Sewer and Watercourse By-law No. 8093
regarding housekeeping amendments**

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

1. This by-law amends the indicated provisions of the Sewer and Watercourse By-law No. 8093.
2. In section 1.2, Council:
 - (a) adds a new definition in the correct alphabetical order as follows:

“infill single detached house” means, for the purposes of this By-law, a building consisting of one dwelling unit on a site already containing an existing building which is retained, but does not include a laneway house;”;
 - (b) strikes out the definition of “laneway house” and substitutes the following:

“laneway house” means a detached dwelling unit constructed in the rear yard of a site on which is situated a single detached house or a single detached house with secondary suite;”;
 - (c) strikes out the definition of “one-family and two-family dwellings”; and
 - (d) adds a new definition in the correct alphabetical order as follows:

“single detached houses and duplexes” means, for the purposes of this By-law, any of the dwelling types listed in Part III of Schedule A to this By-law, but for further certainty, excludes “Parking Lot/Garden;”.
3. In sections 2.9(3) and 2.20(4), Council strikes out “one-family and two-family dwellings” and substitutes “single detached houses and duplexes”.
4. In Schedule A, Part I, Council:
 - (a) in section 1, strikes out “One-Family or Two-Family Dwellings with or without a Laneway House” and substitutes “Single Detached House with or without Laneway House, or Duplex”; and
 - (b) in section 2, strikes out “One-Family or Two-Family Dwellings” and substitutes “Single Detached House or Duplex”.
5. In Schedule A, Part III, Council:
 - (a) in line 1, strikes out “Single Family Dwelling” and substitutes “Single Detached House”; and
 - (b) in line 2, strikes out “Single Family Dwelling with Suite” and substitutes “Single Detached House with Secondary Suite”;

EXPLANATION

A By-law to amend the Water Works By-law No. 4848 regarding housekeeping amendments

Enactment of the attached by-law will implement Council's resolution of April 13, 2023 to amend the Water Works By-law regarding housekeeping amendments.

Director of Legal Services
April 25, 2023

EXPLANATION

**A By-law to amend Sign By-law No.11879
regarding a housekeeping amendment**

Enactment of the attached by-law will implement Council's resolution of April 13, 2023 to amend the Sign By-law regarding a housekeeping amendment.

Director of Legal Services
April 25, 2023

BY-LAW NO. ____

**A By-law to amend Sign By-law No.11879
regarding a housekeeping amendment**

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

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

“

1837-1847 Main Street and 180 East 2nd Avenue and 157-185 East 3rd Avenue	CD-1(684)	11944	C-3A
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”

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

ENACTED by Council this _____ day of _____, 2023

Mayor

Acting City Clerk

EXPLANATION

**A By-law to amend Sign Fee By-law No. 11880
regarding a housekeeping amendment**

Enactment of the attached by-law will implement Council's resolution of April 13, 2023 to amend the Sign Fee By-law regarding a housekeeping amendment.

Director of Legal Services
April 25, 2023

BY-LAW NO. _____

**A By-law to amend Sign Fee By-law No. 11880
regarding a housekeeping amendment**

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

1. This by-law amends the indicated provisions of the Sign Fee By-law No. 11880.
2. In section 1.1(e) of Schedule 1, Council strikes out “Director on Planning” and substitutes “Director of Planning”.
3. This by-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2023

Mayor

Acting City Clerk

EXPLANATION

**A By-law to amend
Zoning and Development By-law No. 3575**

Enactment of the attached by-law will implement Council's resolutions of April 13, 2023 to amend the Zoning and Development By-law regarding miscellaneous amendments.

Director of Legal Services
April 25, 2023

BY-LAW NO. ____

By-law to amend Zoning and Development By-law regarding housekeeping amendments

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

1. This by-law amends the indicated provisions of the Zoning and Development By-law.
2. In section 2, Council:
 - (a) in the definition of Impermeable Materials, adds “permeable pavers,” after “stone,”; and
 - (b) adds a new definition in the correct alphabetical order as follows:

“Mezzanine An intermediate level between the floor and ceiling of any room or storey, a portion of which may be enclosed, and includes an interior balcony.”.
3. In section 4.1.3, Council strikes out “drawn in metric or imperial measurements on substantial paper, mylar or other material satisfactory to the Director of Planning” and substitutes “in metric or imperial measurements in a form satisfactory to the Director of Planning”.
4. In section 10.1, Council:
 - (a) in section 10.1.1, strikes out “section 10.1.1(d)” and substitutes “sections 10.1.1(d), 10.1.1(f), 10.1.1(g) and 10.1.1(h)”;
 - (b) in section 10.1.1(d), adds “zero-emission mechanical equipment,” after “roof mounted energy technologies,”.
5. In section 10, Council adds the following new sections 10.35 and 10.36:

“10.35 Mezzanine

10.35.1 A mezzanine is not counted as a storey if the mezzanine covers no more than 40% of the horizontal plane separating the mezzanine from the floor space below.

10.35.2 Despite section 10.35.1, if a mezzanine larger than 40% is required to meet the floor area regulations for uses on the ground floor in an I district, the Director of Planning may determine that the mezzanine is not to be counted as a storey.

10.36 Floor Area Exclusions for Roof-Top Access Structures

10.36.1 Computation of floor area must exclude the area of roof-top access structures, including open or enclosed stairways or elevators, at the roof level only, if they provide access to private or common outdoor amenity space.”.

6. In the table in section 2.1 of the FC-1 District Schedule, in the second column next to Cannabis Store, Council strikes out “Outright” and substitutes “Conditional”.

7. In section 3.1.2.11 of the RM-4 and RM-4N Districts Schedule, Council:

(a) renumbers sections 3.1.2.11(a), 3.1.2.11(b), 3.1.2.11(c) and 3.1.2.11(d) as sections 3.1.2.11(b), 3.1.2.11(c), 3.1.2.11(d) and 3.1.2.11(e), respectively; and

(b) adds a new section 3.1.2.11(a) as follows:

“(a) the maximum site frontage;”.

8. In the RM-7, RM-7N and RM-7AN Districts Schedule, Council:

(a) strikes out section 3.1.2.13 and substitutes the following:

“3.1.2.13 The Director of Planning may vary the maximum building height for a building that is not a rear building to a height not exceeding 11.5 m and 4 storeys if the fourth storey is a partial storey not exceeding 60% of the storey immediately below, if the Director of Planning considers the intent of this schedule and all applicable Council policies and guidelines.”; and

(b) strikes out section 3.2.2.13 and substitutes the following:

“3.2.2.13 The Director of Planning may vary the maximum building height for a building that is not a rear building to a height not exceeding:

(a) 11.5 m and 4 storeys if the fourth storey is a partial storey not exceeding 60% of the storey immediately below; or

(b) 11.5 m and 3 storeys for a site that is encumbered by a right of way granted to the Greater Vancouver Sewerage and Drainage District,

if the Director of Planning considers the intent of this schedule and all applicable Council policies and guidelines.”.

9. In the RM-8, RM-8N, RM-8A and RM-8AN Districts Schedule, Council:

(a) in section 3.1.2, amends the table heading by striking out:

“

Regulations	RM-8 and RM-8N	RM-8A and RM-8AN
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”

and substitutes:

“

Regulations	RM-8, RM-8N, RM-8A and RM-8AN
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”

(b) in section 3.1.2.3(b), strikes out “7.7 m and 2 storeys” and substitutes “10.1 m and 3 storeys”;

(c) in section 3.1.2.4, strikes out “4.9 m” and substitutes “3.7 m”;

(d) in section 3.1.2.6, strikes out:

“

1.0 m	1.8 m
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”

and substitutes:

“

1.8 m

”

(e) in section 3.1.2.10:

- (i) strikes out “for sites having a width of at least 24.0 m”, and
- (ii) strikes out “22.0 m” and substitutes “27.0 m”;

(f) strikes out section 3.1.2.13 and substitutes the following:

“3.1.2.13 Despite the maximum building height in section 3.1.2.3(b) above, the third storey must be a partial storey not exceeding 60% of the storey immediately below.”;

(g) renumbers sections 3.1.2.14, 3.1.2.15, 3.1.2.16, and 3.1.2.17 as sections 3.1.2.16, 3.1.2.17, 3.1.2.18 and 3.1.2.19, respectively;

(h) adds a new section 3.1.2.14 as follows:

“Side Yard

3.1.2.14 Despite the minimum side yard width in section 3.1.2.5 above, where a side yard is located on a flanking street and where the front doors of a building face the flanking street, the minimum side yard width is 2.4 m.”;

(i) adds a new section 3.1.2.15 as follows:

“Building Depth

3.1.2.15 Despite the maximum building depth in section 3.1.2.9 above, on a corner site, where the front doors of a building face the flanking street, a maximum building depth is not required.”; and

(j) in section 3.1.2.19, strikes out subsections (b) through (e) and substitutes the following:

“(b) the maximum area of impermeable materials; and

(c) the maximum building width.”.

10. In the M-1 District Schedule, Council:

(a) in the title above section 3.1.2.4, strikes out “and Vertical Angle of Daylight”;

(b) strikes out sections 3.1.2.5, 3.1.2.6, and 3.1.2.7; and

(c) renumbers sections 3.1.2.8, 3.1.2.9, 3.1.2.10, and 3.1.2.11 as sections 3.1.2.5, 3.1.2.6, 3.1.2.7 and 3.1.2.8, respectively.

11. In the M-2 District Schedule, Council:

(a) in the title above section 3.1.2.4, strikes out “and Vertical Angle of Daylight”;

(b) strikes out sections 3.1.2.5, 3.1.2.6, and 3.1.2.7; and

(c) renumbers sections 3.1.2.8, 3.1.2.9, 3.1.2.10, and 3.1.2.11 as sections 3.1.2.5, 3.1.2.6, 3.1.2.7 and 3.1.2.8, respectively.

12. 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.

13. This by-law is to come into force and take effect upon enactment.

ENACTED by Council this _____ day of _____, 2023

Mayor

Acting City Clerk

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 512 West King Edward Avenue**

After the public hearing on October 20, 2016, Council approved in principle the land owner's application to rezone the above noted property from RS-1 (One-Family Dwelling) District to CD-1 (Comprehensive Development) District, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Arts, Culture and Community Services and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant, and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services
April 25, 2023



1. Application

**Michael Mjanes, DLA Piper (Canada) LLP
Barristers & Solicitors
2800 - 666 Burrard Street
Vancouver BC V6C 2Z7
604.687.9444**

File number: 084683-00003 (ROD:cgs)

2. Description of Land

PID/Plan Number	Legal Description
010-870-903	LOT 8 BLOCK 680 DISTRICT LOT 526 PLAN 6539

3. Nature of Interest

Type	Number	Additional Information
COVENANT		S. 219 Covenant Entire agreement.

4. Terms

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

5. Transferor(s)

S BENJAMIN HOLDINGS LTD., NO.BC0931271

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)

See Affidavit of Execution

YYY-MM-DD
2023-03-31

S BENJAMIN HOLDINGS LTD.
By their Authorized Signatory


Sydney Benjamin

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

Print Name:

"as to all signatures"

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*, 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
FOR MARKET RENTAL HOUSING
512 WEST KING EDWARD AVENUE**

WHEREAS:

- A. Capitalized terms used in this Agreement will have the respective meanings ascribed to them in Section 1.1, unless otherwise defined herein or the context otherwise requires;
- B. It is understood and agreed that this instrument and Agreement shall be read as follows:
- (i) the Transferor, S BENJAMIN HOLDINGS LTD., as more particularly defined in Section 1.1, is called the "Owner"; and
 - (ii) the Transferee, 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 the geographic location;
- C. The Owner is the registered and beneficial owner of the Lands;
- D. The Owner made an application to rezone the Lands (the "Rezoning Application") from RS-1 (One-Family Dwelling) District to CD-1 (Comprehensive Development) District to permit the development of a six-storey residential building, and after a public hearing, the City approved the Rezoning Application in principle, subject to a number of conditions, including that the Owner enter into a Housing Agreement to secure all residential units as rental housing units for the longer of 60 years or the life of the building;
- E. During the development permitting process, the Owner elected to seek a DCL waiver pursuant to the City's DCL By-law, and accordingly the Housing Agreement condition was amended at the development permit stage to include requirements necessary for the Owner to qualify under Section 3.1A of the DCL By-law, and a Housing Agreement and Housing Agreement Notice were registered on title to the Lands under Nos. CA9573083 and CA9573084, respectively (together the "Original Housing Agreement");
- F. The Owner and the City are entering into this Agreement to replace the Original Housing Agreement.

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

**ARTICLE 1
DEFINITIONS AND INTERPRETATIONS**

- 1.1 Definitions. Terms defined in this Section 1.1, unless specifically otherwise provided in this Agreement, will have the following meanings:

{01981573v3}
March 20, 2023

Housing Agreement and Building Use Covenant
512 WEST KING EDWARD AVENUE

- (a) "**Agreement**" means this housing agreement and building use covenant, including the foregoing Recitals;
- (b) "**Building Permit**" means any building permit issued by the City authorizing the building of the New Building as contemplated by the Development Permit;
- (c) "**City**" and "**City of Vancouver**" have the meaning ascribed to those terms in Recital B(ii);
- (d) "**City Manager**" means the chief administrator from time to time of the City and her successors in function and their respective nominees;
- (e) "**City Personnel**" means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (f) "**Commencement Date**" means the date as of which this Agreement has been executed by all parties to it;
- (g) "**Development**" means the development on the Lands described in Recital C and approved by the Development Permit;
- (h) "**Development Permit**" means a development permit issued by the City means as a result of the Development Permit Application;
- (i) "**Development Permit Application**" has the meaning ascribed to that term in Recital D;
- (j) "**Director of Legal Services**" means the chief administrator from time to time of the Legal Services Department of the City and her/his successors in function and their respective nominees;
- (k) "**General Manager of Community Services**" means the chief administrator from time to time of the City's Community Services Department and his/her successors in function and their respective nominees;
- (l) "**Housing Unit**" means a self-contained residential unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (m) "**Land Title Act**" means the Land Title Act, R.S.B.C. 1996, c. 250;
- (n) "**Lands**" means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 in the Form C attached hereto, and includes any lots or parcels into which such land is consolidated or further subdivided;
- (o) "**Losses**" means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, liabilities, indirect or consequential damages (including loss

of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;

- (p) **"New Building"** means any new building or structure built on the Lands as contemplated by the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (q) **"Occupancy Permit"** means a permit issued by the City authorizing the use and occupation of the New Building or any other development or partial development on the Lands contemplated by the Development Permit;
- (r) **"Owner"** means the registered of the Lands as of the Commencement Date, namely, S Benjamin Holdings Ltd., and all of its permitted assigns, successors and successors in title to the Lands or any part thereof;
- (s) **"Related Person"** means, where the registered or beneficial owner of the Rental Housing Units is:
 - (i) a corporation (as that term is defined in the *Business Corporations Act* (British Columbia), then a Related Person is:
 - A. an officer, director or shareholder of such 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;
- (t) **"Rental Housing"** means a Housing Unit which is not occupied by the registered or beneficial owner of the same or by a Related Person, but which is made available by such owner to the general public, at arm's length, for use as rental accommodation 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;
- (u) **"Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(c), and **"Rental Housing Unit"** means any one of such Units;
- (v) **"Replacement Rental Housing Unit"** has the meaning ascribed to that term in section 2.1(j) and **"Replacement Rental Housing Units"** means all of such units;
- (w) **"Residential Tenancy Act"** means the Residential Tenancy Act, S.B.C. 2002, c. 78;

- (x) "Term" means the term of this Agreement, which will commence on the Commencement Date and will end on the later of:
 - (i) the date as of which the New Building is demolished or substantially destroyed; or
 - (ii) 60 years from the date when the final Occupancy Permit is issued for the New Building;
- (y) "Vancouver" has the meaning ascribed to that term in Recital B(ii); and
- (z) "*Vancouver Charter*" means the Vancouver Charter, S.B.C. 1953, c. 55.

1.2 Interpretation. In this Agreement:

- (a) Party. Any reference to a party herein will be deemed to include the heirs, executors, administrators, successors, assigns, employees, servants, agents, officers, contractors, licensees and invitees of such parties wherever the context so permits or requires.
- (b) Singular: Gender. Wherever the singular or masculine or neuter is used in this Agreement, the same will be construed to mean the plural or the feminine or body corporate or politic, and vice versa, as the context or the parties so require.
- (c) Captions and Headings. The captions and headings appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any of the provisions hereof.
- (d) References. References to the or this "Agreement" and the words "hereof" "herein" and similar words refer to this Agreement as a whole and not to any section or subsection or other subdivision hereof and any reference in this Agreement to a designated Recital, Section, subsection or other subdivision is a reference to the designated Recital, Section, subsection or subdivision hereof.
- (e) Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia. Any reference to a statute is to the statute and its regulations in force on the date the Form C General Instrument - Part 1 is fully executed and to subsequent amendments to or replacements of the statute or regulations.
- (f) Legislation. Any reference to a statute includes and is a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any statute and regulations that may be passed which have the effect of supplementing or superseding such statutes and regulations.

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

**ARTICLE 2
RESTRICTIONS ON USE, SALE AND SUBDIVISION**

2.1 The Owner covenants and agrees that:

- (a) throughout the Term, the Lands and the New Building will not be used in any way that is inconsistent with the terms of this Agreement;
- (b) if it carries out any development on the Lands after the Commencement Date, it will construct, fit and finish, at its sole cost and expense, the New Building to contain forty-eight (48) Housing Units (or such similar amount as may be approved at the Development Permit stage) and related amenity and parking spaces], in accordance with this Agreement, the conditions of the Development Permit, the Building Permit and all applicable City by-laws and policies, all to the satisfaction of the City;
- (c) throughout the Term, not less than all of the Housing Units will be used only for the purpose of providing Rental Housing (the "**Rental Housing Units**"). Notwithstanding the foregoing, the Owner may rent or provide one of the Housing Units to the caretaker, manager or superintendent of the New Building, who may be a Related Person, for the term of the caretaker, manager or superintendent's employment by the Owner;
- (d) throughout the Term, it will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) for a term of less than one month at a time;
- (e) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) to be sold or otherwise transferred unless title to every Rental Housing Unit (or Replacement For Rental Housing Unit, as applicable) is sold or otherwise transferred together and as a block to the same owner, and subject further to Section 8.9;
- (f) throughout the Term, it will not suffer, cause or permit the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided, whether by subdivision plan, strata plan or otherwise, without the prior written consent of the Director of Legal Services, which consent may be arbitrarily withheld;
- (g) throughout the Term, any sale of a Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) in contravention of the covenant in Section 2.1(e),

and any subdivision of the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in contravention of Section 2.1(f), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;

- (h) throughout the Term, it will insure, or cause to be insured, the 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;
- (i) throughout the Term, it will keep and maintain the New Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, reasonable wear and tear excepted. If the Rental Housing Units (or Replacement Rental Housing Unit, as applicable) or any part of any thereof are/is damaged, the Owner will promptly restore and repair the same whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred; and
- (j) if the New Building is destroyed or demolished before the end of the 60th anniversary of the date when the final Occupancy Permit is issued for the New Building, then any replacement building(s) built on the Lands (together with any remaining undestroyed or undemolished building) will also contain not less than the same number and type of replacement Rental Housing Units as the New Building formerly contained, which replacement Rental Housing Units will also be used only for the purpose of providing Rental Housing (each such replacement Rental Housing Unit hereinafter referred to as a "**Replacement Rental Housing Unit**"), in accordance with the terms of this Agreement and the applicable by-laws of the City.

ARTICLE 3 OCCUPANCY RESTRICTION ON THE LANDS

- 3.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the 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 Community Services, in form and substance satisfactory to the General Manager of Community Services, proof of the insurance, consistent with the requirements of Section 2.1(h), is in force and effect;
 - (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, rental rates charged and occupancy of/for the 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. The City will comply with the Owner's statutory obligations with respect to privacy of such information.

**ARTICLE 5
ENFORCEMENT**

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

**ARTICLE 6
RELEASE AND INDEMNITY**

- 6.1 Release and Indemnity. Subject to Section 6.2, the Owner hereby:
- (a) releases and discharges the City and all City Personnel from all Losses which may arise or accrue to the Owner and covenants and agrees to indemnify and save harmless the City and all City Personnel from and against all Losses which may arise, accrue or be incurred by the City or any City Personnel or which are made by any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to:
- (i) by reason of the City or City Personnel:
- A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
- B. withholding any permit pursuant to this Agreement; or
- C. exercising any of its rights under any Section 219 covenant or other right granted to the City pursuant to this Agreement; or
- (ii) that otherwise arise out of, or would not have been incurred but for this Agreement;
- whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel; and

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

The indemnities in this Article 6 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted in this Agreement.

6.2 Conduct of Proceedings.

- (a) In the event that a claim is made against the City which, pursuant to the terms of this Agreement, requires the Owner to indemnify the City or City Personnel, then the City will give notice of such claim to the Owner and, subject to Section 6.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 6.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 6.2(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, will be in writing and will be given by registered mail or personal delivery, addressed as set forth below. Any such notice, demand or request will be deemed given:

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

if to the City:

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

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

If to the Owner:

S Benjamin Holdings Ltd.
121 West King Edward Avenue
Vancouver, British Columbia V5Y 2H8

Attention: President

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

**ARTICLE 8
MISCELLANEOUS**

- 8.1 Agreement Runs With the Lands. The covenants and agreements set forth herein on the part of the Owner shall be covenants the burden of which shall run with and shall bind the Lands and shall attach thereto and run with each and every part into which the same may be subdivided or consolidated.
- 8.2 Enurement. This Agreement 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.
- 8.3 Severability. All the obligations and covenants contained in this Agreement are severable, so that if any one or more of the obligations or covenants are held by or declared by a court of competent jurisdiction to be void or unenforceable, the balance of the obligations and covenants will remain and be binding.
- 8.4 Vancouver Charter. Nothing contained or implied herein will derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter*, and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and the City.
- 8.5 Waiver. The Owner acknowledges and agrees that no failure on the part of the City to exercise and no delay in exercising any right under this Agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.
- 8.6 Perfection of Intention. The Owner shall, after execution hereof, do or cause to be done at its own cost and expense all things and acts necessary to ensure that this Agreement is noted on title to the Lands as a housing agreement pursuant to Section 565.2 of the *Vancouver Charter* and also registered as a charge against title to the Lands.
- 8.7 Priority of Registration. The Owner agrees to cause 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 the Crown 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 or Rezoning Application; and
 - (c) which the Director of Legal Services has determined, in her/his sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.
- 8.8 Further Assurances. Each party shall execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement.
- 8.9 Sale or Transfer of Lands or New Building. Prior to the sale or transfer of any legal or beneficial interest in the Lands and/or the New Building or any part thereof (other than the transfer of an interest by way of mortgage, where the mortgagee has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage), subject always to Sections 2.1(e) and 2.1(f), the Owner will cause the purchaser/ transferee to enter into an assumption agreement with the City, in form and substance satisfactory to the Director of Legal Services, pursuant to which the purchaser/transferee will agree to be bound by all of the obligations, agreements and indemnities of the Owner under this Agreement. The provisions in this Section 8.9 will apply equally to all subsequent purchasers/ transferees (other than a mortgagee that has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage).
- 8.10 Owner's Representations 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.
- 8.11 Enforcement. This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it will be entitled to court costs on a solicitor and own client basis.

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

END OF DOCUMENT

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 500-650 West 57th Avenue (Building F2)**

After a public hearing on June 23, 2022 Council approved in principle the land owner's application to amend CD-1 (696) Pearson Dogwood By-law No. 12105, subject to, among other things, one or more Housing Agreements 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. This Housing Agreement is with respect to the lands on which Building F2 of the development will be situated.

Director of Legal Services
April 25, 2023



1. Application

SAMPSON DAVIE FANE VOLPIANA LLP
Barristers and Solicitors
408 - 355 Burrard Street
Vancouver BC V6C 2G8
604.343.1930

File No.: 1087-21-0273
 Attention: Alex Fane / Kelly Boreham
 Housing Agreement - Building F2

2. Description of Land

PID/Plan Number	Legal Description
030-430-631	LOT A BLOCK 1004 DISTRICT LOT 526 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP79678 EXCEPT PLAN EPP86464

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Entire Instrument
PRIORITY AGREEMENT		granting the Covenant with one registration number less than this Priority Agreement priority over Option to Purchase CA5042592
PRIORITY AGREEMENT		granting the Covenant with one registration number less than this Priority Agreement priority over Mortgage CA7121629 (see CA7705081) and Assignment of Rents CA7121630 (see CA7705082)

4. Terms

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

5. Transferor(s)

ONNI PEARSON DOGWOOD HOLDINGS CORP., NO.BC1028296
VANCOUVER COASTAL HEALTH AUTHORITY, AS TO PRIORITY
HSBC BANK CANADA, 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 <hr/>	Execution Date <div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD </div>	Transferor / Transferee / Party Signature(s) ONNI PEARSON DOGWOOD HOLDINGS CORP. By its Authorized Signatory: <hr/> Name:
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Officer Certification

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

Witnessing Officer Signature  <hr/> WILLIAM POLLITT Barrister & Solicitor Vancouver Coastal Health Authority 601 W. Broadway, 11 th Floor Vancouver, BC V5Z 4C2	Execution Date <div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD 2023-04-11 </div>	Transferor / Transferee / Party Signature(s) VANCOUVER COASTAL HEALTH AUTHORITY By its Authorized Signatory(ies):  <hr/> Name: VISHAAC DASOAN <hr/> Name:
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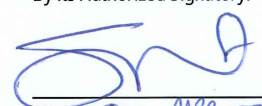
Officer Certification

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.



8. Execution(s)

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

Witnessing Officer Signature  <hr/> Jon Bunyan Barrister & Solicitor Onni Group 200 - 1010 Seymour Street Vancouver, B.C., V6B 3M6	Execution Date <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD 2023-04-05 </div>	Transferor / Transferee / Party Signature(s) ONNI PEARSON DOGWOOD HOLDINGS CORP. By its Authorized Signatory:  <hr/> Name: SAM PARROTTA
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Officer Certification: (604) 602 - 7711

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

Witnessing Officer Signature <hr/>	Execution Date <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD </div>	Transferor / Transferee / Party Signature(s) VANCOUVER COASTAL HEALTH AUTHORITY By its Authorized Signatory(ies): <hr/> Name: <hr/> Name:
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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

Transferor / Transferee / Party Signature(s)

YYYY-MM-DD
 2023-06-12

HSBC BANK CANADA
 By its Authorized Signatory(ies):

Name: Kristy Todd Miller
 Senior Director, CRE, HSBC

Name: **GARY KATAYAMA**
 Assistant Vice President
 Commercial Real Estate

ASHLEY HEMMINGWAY
 A Commissioner for Taking Oaths
 for British Columbia
 885 West Georgia St., Vancouver, BC
 Commission Expires: June 30, 2024

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
 By its Authorized Signatory:

 Name:

Officer Certification

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

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

500-650 WEST 57TH AVENUE

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
 - I. the Transferor, **ONNI PEARSON DOGWOOD HOLDINGS CORP.**, is called the “**Owner**”, as more particularly defined in Section 1.1(r); 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 Development Lands (including the Lands) (the “**Original Rezoning Application**”) from RT-2 (Two-Family Dwelling) District to CD-1 (Comprehensive Development) District, which rezoning by-law was enacted in 2018 as CD-1 (696) By-law No. 12105 (the “**Original Rezoning By-law**”);
- D. The Owner made a further application to rezone the Development Lands (including the Lands) by amendment to the Original Rezoning By-law (the “**Rezoning Application**”) and after a public hearing to consider the Rezoning Application, the Rezoning Application was approved by City Council in principle, subject to, among other things, fulfilment of the condition that, prior to enactment of the amendment to the Original Rezoning By-law (upon enactment, the “**Rezoning By-law**”), the Owner make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement by by-law enacted pursuant to Section 565.2 of the *Vancouver Charter* securing all of the residential units on the Lands as secured rental housing units, for the longer of 60 years and life of the New Building and further that not less than 24,650.3 square metres (265,334 square feet) of residential units in the New Building, the C1 Building and the E1 Building are secured as rental housing units and not less than 6,162.6 square metres (66,334 square feet) of the residential floor areas counted in the calculation of the floor space ratio of the C1 Building and the E1 Building are secured as Moderate Income Rental Housing Units and subject to other conditions set forth in the minutes of the public hearing (collectively, the “**Housing Condition**”); and
- E. 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:

- (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) **“C1 Building”** means the new building or structure to be built on the C1 Lands, as shown on the plan attached hereto in Schedule A, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the C1 Lands during the period of, and required for the purposes of, any construction;
- (d) **“C1 Lands”** means the parcel of land situate in Vancouver, British Columbia and legally described as:

PID: 030-587-875

LOT C DISTRICT LOT 526 GROUP 1 NEW WESTMINSTER DISTRICT

PLAN EPP86464

and includes any parcels into which such land is consolidated or further subdivided;

- (e) **“City”** and **“City of Vancouver”** have the meaning ascribed to those terms in Recital A(ii);
- (f) **“City Manager”** means the chief administrator from time to time of the City and her successors in function and their respective nominees;
- (g) **“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;
- (h) **“Development”** means the development on the Lands described in Recital C and approved by a Development Permit;
- (i) **“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;
- (j) **“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;

- (k) **“Dwelling Unit”** has the meaning set out in the City’s Zoning and Development By-law No. 3575, as amended or replaced from time to time;
- (l) **“E1 Building”** means the new building or structure to be built on the E1 Lands, as shown on the plan attached hereto in Schedule A, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the E1 Lands during the period of, and required for the purposes of, any construction;
- (m) **“E1 Lands”** means the parcel of land situate in Vancouver, British Columbia, and legally described as:
 - PID: 030-587-913
 - LOT C DISTRICT LOT 526 GROUP 1 NEW WESTMINSTER DISTRICT
 - PLAN EPP86464and includes any parcels into which such land is consolidated or further subdivided;
- (n) **“Effective Date”** means the date as of which this Agreement has been executed by all parties to it;
- (o) **“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;
- (p) **“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;
- (q) **“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;
- (r) **“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;
- (s) **“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;
- (t) **“Occupancy Permit”** means a permit issued by the City authorizing the use and occupation of any New Building, development or partial development on the Lands issued after the Effective Date;

- (u) **“Owner”** means the registered owner of the Lands as of the Effective Date, namely ONNI PEARSON DOGWOOD HOLDINGS CORP., and its successors and permitted assigns;
- (v) **“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;
- (w) **“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;
- (x) **“Rental Housing Units”** means has the meaning ascribed to it in Section 2.1(c), and **“Rental Housing Unit”** means any one of them;
- (y) **“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;
- (z) **“Residential Tenancy Act”** means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, as may be amended or replaced from time to time;
- (aa) **“Rezoning”** means the rezoning of the Lands as described in Recital C;
- (bb) **“Rezoning By-law”** has the meaning ascribed to it in Recital C;
- (cc) **“Term”** means the term of this Agreement, which will commence on the Effective Date and will end on the later of:
 - (i) the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building; and
 - (ii) the date as of which the New Building is demolished or substantially destroyed;
- (dd) **“Vancouver”** has the meaning ascribed to that term in Recital A(ii); and

- (ee) “*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) at its sole cost and expense, it will construct not less than 24,650.3 square metres (265,334 square feet) in aggregate of floor area within the New Building, the C1 Building and E1 Building containing Dwelling Units for use only as Rental Housing and further, it will construct, fit and finish the New Building, including the Rental Housing Units, any amenities and parking spaces, in accordance with this Agreement, the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies, all to the satisfaction of the City;
- (c) when the New Building is completed and an Occupancy Permit has been issued and thereafter throughout the Term, all of the Dwelling Units in the New Building will be used only for the purpose of providing Rental Housing (the “**Rental Housing Units**”) 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 the Rental Housing Units same number and type of replacement Dwelling Units as the New Building formerly contained, which replacement Rental Housing Units will also be used only for the purpose of providing Rental Housing (each such replacement Rental Housing Unit hereinafter referred to as a “**Replacement Rental Housing Unit**”), in accordance with the terms of this Agreement and the applicable by-laws of the City 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 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 to be sold or otherwise transferred unless title to every one of the Rental Housing Units is sold or otherwise transferred together and as a block to the same legal or beneficial owner, as applicable;
- (f) throughout the Term, it will not suffer, cause or permit, the Lands or the New Building 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 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 of the insurance, consistent with the requirements of Section 2.1(j), is in force and effect; and
 - (ii) the City will be under no obligation to issue any Occupancy Permit, notwithstanding completion of construction of the New Building until such time as the Owner has complied with Section 3.1(a)(i); and
- (b) without limiting the general scope of ARTICLE 5, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of an Occupancy Permit until there is compliance with the provisions of this ARTICLE 3.

**ARTICLE 4
ENFORCEMENT**

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

**ARTICLE 5
RELEASE AND INDEMNITY**

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

(a) will not make any claims against the City or City Personnel and releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner in connection with this Agreement, including without limitation:

(i) by reason of the City or City Personnel:

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

(ii) that otherwise arise out of, or would not have been incurred but for this Agreement,

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

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

(i) this Agreement;

(ii) the City or City Personnel:

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

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

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

The indemnities in this ARTICLE 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:

Onni Pearson Dogwood Holdings Corp.
200-1010 Seymour Street
Vancouver, British Columbia
V6B 3M6

Attention: Legal Department

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

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

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

**ARTICLE 7
MISCELLANEOUS**

7.1 **Agreement Runs With the Lands.** The covenants and agreements set forth herein on the part of the Owner will be covenants the burden of which will run with and will bind the Lands and will attach thereto.

7.2 Agreement to be a First Charge. The Owner agrees to cause, at its sole cost and expense, the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:

- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
- (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of any Development Permit; and
- (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.

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

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

7.5 Further Assurances. The Owner will execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement including all acts necessary to ensure that this Agreement is noted on title to the Lands.

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

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

7.7 Sale of Lands or New Building. Prior to the sale or transfer of any legal or beneficial interest in the Lands and/or the New Building or any part thereof (other than (i) the transfer of an interest in the Lands by way of mortgage or (ii) the transfer of an interest to an affiliate of the Owner), 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.

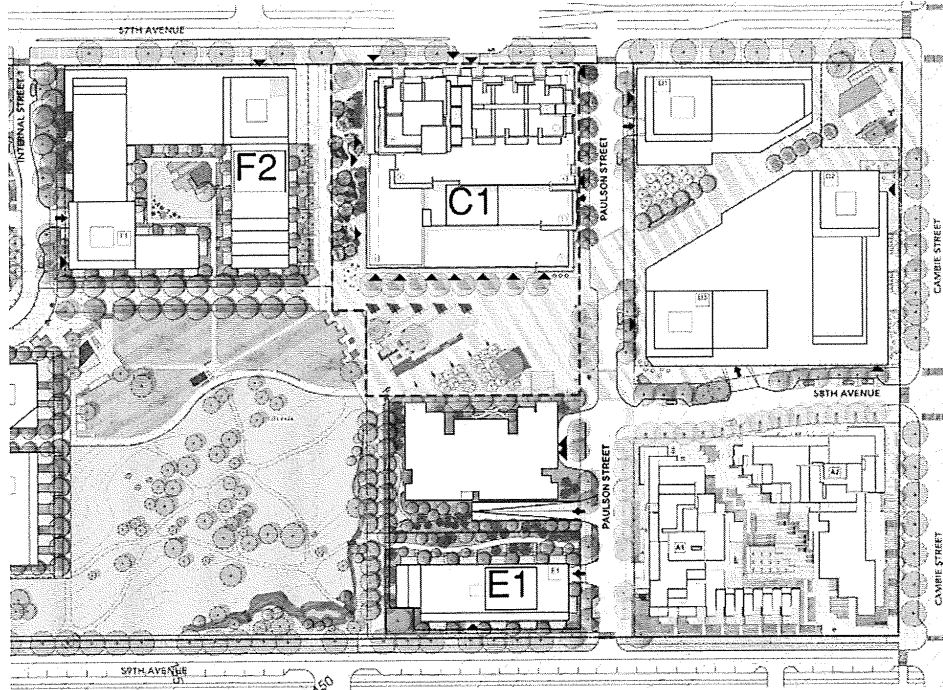
7.9 Vancouver Charter. Nothing contained or implied herein will derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver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

SCHEDULE A

SKETCH PLAN SHOWING THE NEW BUILDING, THE C1 BUILDING AND THE E1 BUILDING



CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Option to Purchase registered under number CA5042592;
- (b) "Existing Chargeholder" means VANCOUVER COASTAL HEALTH AUTHORITY;
- (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.

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) **"Existing Charges"** means the Mortgage registered under number CA7121629, as modified by Modification CA7705081 and the Assignment of Rents registered under number CA7121630, as modified by Modification CA7705082;
- (b) **"Existing Chargeholder"** means HSBC BANK CANADA;
- (c) **"New Charges"** means the Housing Agreement and Section 219 Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

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

- (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: 500-650 West 57th Avenue (Building C1)

After a public hearing on June 23, 2022 Council approved in principle the land owner's application to amend CD-1 (696) Pearson Dogwood By-law No. 12105, subject to, among other things, one or more Housing Agreements 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. This Housing Agreement is with respect to the lands on which Building C1 of the development will be situated.

Director of Legal Services
April 25, 2023



1. Application

SAMPSON DAVIE FANE VOLPIANA LLP
Barristers and Solicitors
408 - 355 Burrard Street
Vancouver BC V6C 2G8
604.343.1930

File No.: 1087-21-0273
 Attention: Alex Fane / Kelly Boreham
 Housing Agreement - Building C1

2. Description of Land

PID/Plan Number	Legal Description
030-587-875	LOT C DISTRICT LOT 526 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP86464

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Entire Instrument
PRIORITY AGREEMENT		granting the Covenant with one registration number less than this Priority Agreement priority over Option to Purchase CA5042592
PRIORITY AGREEMENT		granting the Covenant with one registration number less than this Priority Agreement priority over Mortgage CA7121629 (see CA7705081) and Assignment of Rents CA7121630 (see CA7705082)

4. Terms

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

5. Transferor(s)

ONNI PEARSON DOGWOOD HOLDINGS CORP., NO.BC1028296
VANCOUVER COASTAL HEALTH AUTHORITY, AS TO PRIORITY
HSBC BANK CANADA, 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

ONNI PEARSON DOGWOOD HOLDINGS CORP.

By its Authorized Signatory:

Name:

Officer Certification

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

Witnessing Officer Signature

Execution Date


Transferor / Transferee / Party Signature(s)



YYY-MM-DD
2023-04-11

VANCOUVER COASTAL HEALTH AUTHORITY

By its Authorized Signatory(ies):



Name: VISHAL DASGUPTA

WILLIAM POLLITT
Barrister & Solicitor
Vancouver Coastal Health Authority
601 W. Broadway, 11th Floor
Vancouver, BC V5Z 4C2

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.



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


 Jon Bunyan
 Barrister & Solicitor
 Onni Group
 200 - 1010 Seymour Street
 Vancouver, B.C., V6B 3M6
 T: (604) 602 - 7711

Execution Date
 YYYY-MM-DD
 2023-04-05

Transferor / Transferee / Party Signature(s)

ONNI PEARSON DOGWOOD HOLDINGS CORP.
 By its Authorized Signatory:



 Name: SAM PARROTTA

Witnessing Officer Signature

Execution Date
 YYYY-MM-DD

Transferor / Transferee / Party Signature(s)

VANCOUVER COASTAL HEALTH AUTHORITY
 By its Authorized Signatory(ies):

 Name:

 Name:

Officer Certification

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



Land Title Act
Charge
 General Instrument – Part 1

Witnessing Officer Signature

Execution Date

Transferor / Transferee / Party Signature(s)

YYYY-MM-DD
 2023-04-12

HSBC BANK CANADA
 By its Authorized Signatory(ies):

Name: Kristy Todd Miller
 Senior Director, eRE, HSBC

Name: **GARY KATAYAMA**
 Assistant Vice President
 Commercial Real Estate

ASHLEY HEMMINGWAY
 A Commissioner for Taking Affidavits
 for British Columbia
 885 West Georgia St., Vancouver, BC V6C 3E7
 Commission Expires: June 30, 2024

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
 By its Authorized Signatory:

 Name:

Officer Certification

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

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
SECURED RENTAL AND MODERATE INCOME RENTAL HOUSING500-650 WEST 57TH AVENUE
(BUILDING C1)

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- (i) the Transferor, ONNI PEARSON DOGWOOD HOLDINGS CORP., is called the "Owner", as more particularly defined in Section 1.1; and
 - (ii) the Transferee, City of Vancouver, is called the "City" or the "City of Vancouver" when referring to corporate entity continued under the *Vancouver Charter*, and "Vancouver" when referring to geographic location;
- B. The Owner is the registered owner of the Lands;
- C. The Owner made an application to rezone the Development Lands (including the Lands) (the "**Original Rezoning Application**") from RT-2 (Two-Family Dwelling) District to CD-1 (Comprehensive Development) District, which rezoning by-law was enacted in 2018 as CD-1 (696) By-law No. 12105 (the "**Original Rezoning By-law**")
- D. The Owner made a further application to rezone the Development Lands (including the Lands) by amendment to the Original Rezoning By-law (the "**Rezoning Application**") and after a public hearing to consider the Rezoning Application, the Rezoning Application was approved by City Council in principle, subject to, among other things, fulfilment of the condition that, prior to enactment of the amendment to the Original Rezoning By-law (upon enactment, the "**Rezoning By-law**"), the Owner make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement by by-law enacted pursuant to Section 565.2 of the *Vancouver Charter* securing all of the residential units on the Lands as secured rental housing units with at least twenty-five (25%) percent of the residential floor areas counted in the calculation of the floor space ratio secured as Moderate Income Rental Housing Units pursuant to Section 3.1A of the Vancouver DCL Bylaw, for the longer of 60 years and life of the New Building and further that not less than 24,650.3 square metres (265,334 square feet) of residential units in the New Building, the E1 Building and the F2 Building are secured as rental housing units and that not less than 6,162.6 square metres (66,334 square feet) of the residential floor areas counted in the calculation of the floor space ratio of the New Building and the E1 Building are secured as Moderate Income Rental Housing Units and subject to other conditions set forth in the minutes of the public hearing (collectively, the "**Housing Condition**"); and
- E. The Owner is entering into this Agreement to satisfy the Housing Condition.

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration (the receipt and sufficiency of which the parties hereby acknowledge and agree to) the Owner and the City, in satisfaction of the requirements of Section 3.1A of the Vancouver DCL By-law and

pursuant to Section 565.2 of the *Vancouver Charter* and Section 219 of the *Land Title Act*, agree as follows, in respect of the use of the Lands and the New Building:

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

1.1 **Definitions.** Terms defined in this Section 1.1, unless specifically otherwise provided in this Agreement, will have the following meanings:

- (a) **"Agreement"** means this housing agreement and building use covenant, including the foregoing recitals and all schedules hereto;
- (b) **"Building Permit"** means any building permit issued by the City authorizing the building of a New Building as contemplated by the Rezoning By-law and the Development Permit;
- (c) **"City"** and **"City of Vancouver"** have the meaning ascribed to those terms in Recital A(ii);
- (d) **"City Manager"** means the chief administrator from time to time of the City and his or her successors in function and their respective nominees;
- (e) **"City Personnel"** means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (f) **"Development Lands"** means the lands formerly legally described as Lots 1 to 5, all of Block 1004, District Lot 526, Plan 20607, PIDs: 002-395-355, 002-395-363, 002-395-380, 002-395-398 and 002-395-401 respectively;
- (g) **"Development Permit"** means any development permit issued by the City authorizing the development 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"** has the meaning set out in the City's Zoning and Development By-law No. 3575, as amended or replaced from time to time;
- (j) **"E1 Building"** means the new building or structure to be built on the E1 Lands, as shown on the plan attached hereto in Schedule A, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the E1 Lands during the period of, and required for the purposes of, any construction;
- (k) **"E1 Lands"** means the parcel of land situate in Vancouver, British Columbia, and legally described as:

PID: 030-587-913

LOT E DISTRICT LOT 526 GROUP 1 NEW WESTMINSTER DISTRICT PLAN
EPP86464

and includes any parcels into which such land is consolidated or further subdivided;

- (l) **"Effective Date"** means the date as of which this Agreement has been executed by all parties to it;
- (m) **"Eligible Person"** means a person who:
- (i) at the beginning of such person's tenancy of a Moderate Income Rental Housing Unit, together with all other Occupants of such Moderate Income Rental Housing Unit, have an aggregate annual household Income that is less than or equal to four (4) times the annual rent of such Moderate Income Rental Housing Unit;
 - (ii) thereafter throughout such person's tenancy of a Moderate Income Rental Housing Unit, together with all other Occupants of such Moderate Income Rental Housing Unit, have an aggregate annual household Income that is less than or equal to five (5) times the annual rent of such Moderate Income Rental Housing Unit; and
 - (iii) throughout such person's tenancy of a Moderate Income Rental Housing Unit, will:
 - (A) not permit such Moderate Income Rental Housing Unit to be occupied by a person or persons other than those persons identified in the Tenancy Agreement for more than 60 consecutive days or more than 90 days in total in any calendar year, without the prior written consent of the Owner;
 - (B) not permit such Moderate Income Rental Housing Unit to be occupied by a total number of Occupants less than the total number of bedrooms therein;
 - (C) occupy such Moderate Income Rental Housing Unit as his or her Principal Residence and not permit any Occupant to occupy such Moderate Income Rental Housing Unit unless such Moderate Income Rental Housing Unit is the Occupant's Principal Residence;
 - (D) not permit such Moderate Income Rental Housing Unit to be vacant for a period of six months or longer, cumulatively within a calendar year, without the prior written consent of the Owner; and
 - (E) not sublet such Moderate Income Rental Housing Unit or assign the Tenancy Agreement in whole or in part;
- (n) **"F2 Building"** means the new building or structure to be built on the F2 Lands, as shown on the plan attached hereto in Schedule A, and includes any portion of any such building or structure, but does not include temporary buildings or structures

on the F2 Lands during the period of, and required for the purposes of, any construction;

- (o) **"F2 Lands"** means the parcel of land situate in Vancouver, British Columbia, and legally described as:

PID: 030-430-631

LOT A BLOCK 1004 DISTRICT LOT 526 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP79678 EXCEPT PLAN EPP86464

and includes any parcels into which such land is consolidated or further subdivided;

- (p) **"Floor Space Ratio"** means the figure obtained when the area of the floors of the New Building is divided by the area of the Lands;
- (q) **"For-Profit Affordable Rental Housing"** means multiple Dwelling Units within a building for use as Rental Housing which meets the requirements of Section 3.1A of the Vancouver DCL By-law to be "for-profit affordable rental housing" (as defined therein);
- (r) **"For-Profit Affordable Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(c) and **"For-Profit Affordable Rental Housing Unit"** means any one of such units;
- (s) **"General Manager of Planning, Urban Design and Sustainability"** means the person appointed from time to time as the City's General Manager of Planning, Urban Design and Sustainability and his/her successors in function and delegates and their respective nominees;
- (t) **"Income"** of an Occupant means the total annual world-wide income before income tax from all sources of the Occupant and includes without limitation, the following income sources:
- (i) income assistance;
 - (ii) employment, including regular overtime, vacation pay and gratuities;
 - (iii) self-employment, including commission sales;
 - (iv) seasonal employment;
 - (v) Employment Insurance and WorkSafe BC insurance;
 - (vi) training allowances;
 - (vii) income from the Resettlement Assistance Program;
 - (viii) child support, maintenance payments or support from family/friends/community;

- (ix) rental income from real estate or dividends from stocks or bonds, if the real monthly Income is greater than the imputed Income from the Asset; and
- (x) pension incomes including:
 - (A) old Age Security, Guaranteed Income Supplement, Allowance, and Allowance for the Survivor (formerly Spousal Allowance);
 - (B) senior's supplement;
 - (C) private pension plans including Registered Retirement Income Funds;
 - (D) Canada Pension Plan, including retirement, disability, orphans, widows, disability for child, etc.
 - (E) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada (included for calculations with an effective date prior to January, 2013); and
 - (F) foreign pensions,

but does not include:

- (xi) earnings of dependent children aged 18 and under (regardless of student status);
- (xii) student loans, equalization payments, student grants and scholarships;
- (xiii) taxable benefits, including living out or travel allowances, medical coverage, uniform allowance, etc.;
- (xiv) Shelter Aid for Elderly Renters and Rental Assistance Program payments;
- (xv) Canada Child Tax Benefits, including the National Child Benefit Supplement, Child Disability Benefit, BC Family Bonus, and BC Earned Income Benefit;
- (xvi) Universal Child Care Benefits;
- (xvii) BC Childcare Subsidy;
- (xviii) income from foster parenting;
- (xix) Child in Home of Relative and Extended Family Program;
- (xx) income from approved live-in care givers;
- (xxi) GST and Income Tax rebates; and
- (xxii) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada;

- (u) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
- (v) "**Lands**" means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the Form C - General Instrument - Part 1, and includes any parcels into which such land is consolidated or further subdivided;
- (w) "**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;
- (x) "**Moderate Income Rental Housing**" means a portion of the For-Profit Affordable Rental Housing in a building that is comprised of at least 25% of the residential floor area that is counted in the calculation of the Floor Space Ratio consisting of Dwelling Units with average rents per unit type that meet the requirements of Section 2.1(p) of this Agreement, are made available for rent only to Eligible Persons in accordance with this Agreement and comply with the Moderate Income Rental Housing Pilot Program Rezoning Policy;
- (y) "**Moderate Income Rental Housing Pilot Program Rezoning Policy**" means the pilot program policy adopted by City Council on November 28, 2017, as amended on December 5, 2017, May 4, 2018, November 26, 2019 and July 21, 2021 which pilot program policy provides for, *inter alia*, the process, project requirements and available incentives for the development of new buildings where 100% of the residential floor area is secured rental housing and at least 20% of the residential floor area that is counted in the calculation of the Floor Space Ratio is made available to moderate income households;
- (z) "**Moderate Income Rental Housing Rent Roll**" means a rent roll report providing information regarding each of the Moderate Income Rental Housing Units, including the unit number, unit type, unit size and rent;
- (aa) "**Moderate Income Rental Housing Report**" means a notarized annual report prepared by the Owner and delivered to the City providing information regarding each of the Moderate Income Rental Housing Units, including but not limited to the following:
 - (i) unit number for the Moderate Income Rental Housing Unit;
 - (ii) monthly rent rate;
 - (iii) aggregate household Income of the Occupants, based on the most current information available to the Owner pursuant to Section 2.1(g);
 - (iv) number of Occupants residing therein;
 - (v) number of bedrooms contained therein;

- (vi) length of occupancy of the current Tenant; and
- (vii) the results of the verification conducted by the Owner pursuant to Section 2.1(g); and

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

- (bb) **“Moderate Income Rental Housing Units”** has the meaning ascribed to that term in Section 2.1(c) and **“Moderate Income Rental Housing Unit”** means any one of such units;
- (cc) **“New Building”** means the new building or structure to be built on the Lands, as shown on the plan attached hereto in Schedule A, 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;
- (dd) **“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;
- (ee) **“Occupants”** means persons for whom a Rental Housing Unit serves as their Principal Residence and an **“Occupant”** means any one of them, as the context requires;
- (ff) **“Owner”** means the registered owner of the Lands as of the Effective Date, namely, Onni Pearson Dogwood Holdings Corp. and its successors and assigns;
- (gg) **“Pearson Supportive Units”** means the residential care units, being constructed on the Development Lands as replacements of the residential care units in the George Pearson Centre that has or will be demolished as part of the redevelopment of the Development Lands;
- (hh) **“Personal Information Protection Act”** means the *Personal Information Protection Act*, S.B.C. 2003, c.63, and all amendments thereto and re-enactments thereof;
- (ii) **“Principal Residence”** means the usual place where an individual lives, makes his or her home and conducts his or her daily affairs, including, without limitation, paying bills and receiving mail, and is generally the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver’s licenses, personal identification, vehicle registration and utility bills and, for the purposes of this agreement, a person may only have one principal residence;
- (jj) **“Related Person”** means, where the registered or beneficial owner of the Rental Housing Units is:

- (i) a corporation (as that term is defined in the *Business Corporations Act*, S.B.C. 2002, c.57, then a Related Person is:
 - (A) an officer, director or shareholder of such Owner or of another entity which is a shareholder of such Owner; or
 - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder; and
- (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (kk) "**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;
- (ll) "**Replacement For-Profit Affordable Rental Housing Units**" has the meaning ascribed to that term in Section 2.1(c) and "**Replacement For-Profit Affordable Rental Housing Unit**" means one such unit;
- (mm) "**Replacement Moderate Income Rental Housing Units**" has the meaning ascribed to that term in Section 2.1(c) and "**Replacement Moderate Income Rental Housing Unit**" means one such unit;
- (nn) "**Residential Tenancy Act**" means the *Residential Tenancy Act* S.B.C. 2002, c. 78 and all amendments thereto and re-enactments thereof;
- (oo) "**Residential Tenancy Regulation**" means the *Residential Tenancy Regulation*, B.C. Reg. 477/2003 and all amendments thereto and re-enactments thereof;
- (pp) "**Rezoning Application**" has the meaning ascribed to that term in Recital C;
- (qq) "**Rezoning By-law**" has the meaning ascribed to that term in Recital C;
- (rr) "**Statement of Moderate Income Rental Housing Unit Eligibility**" means a notarized statement, prepared by the Owner and delivered to the City, that states the following in respect of a Moderate Income Rental Housing Unit:
 - (i) confirmation that, to the best of the Owner's knowledge based on the most current information available to the Owner pursuant to Section 2.1(g), the Tenant of such Moderate Income Rental Housing Unit is an Eligible Person;
 - (ii) description of all of the actions and procedures that the Owner has undertaken to verify that the Tenant of such Moderate Income Rental Housing Unit is an Eligible Person; and

- (iii) such other information regarding such Moderate Income Rental Housing Unit and its Occupants as the General Manager of Planning, Urban Design and Sustainability may otherwise require;

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

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

1.2 Interpretation. In this Agreement:

- (a) Party. Any reference to a party herein will be deemed to include the heirs, executors, administrators, successors, assigns, employees, servants, agents, officers, contractors, licensees and invitees of such parties wherever the context so permits or requires.
- (b) Singular; Gender. Wherever the singular or masculine or neuter is used in this Agreement, the same will be construed to mean the plural or the feminine or body corporate or politic, and vice versa, as the context or the parties so require.
- (c) Captions and Headings. The captions and headings appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any of the provisions hereof.
- (d) References. References to the or this "**Agreement**" and the words "**hereof**" "**herein**" and similar words refer to this Agreement as a whole and not to any section or subsection or other subdivision hereof and any reference in this Agreement to a

designated Recital, Section, subsection or other subdivision is a reference to the designated Recital, Section, subsection or subdivision hereof.

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

ARTICLE 2 RESTRICTIONS ON USE OF LANDS AND SUBDIVISION

- 2.1 The Owner covenants and agrees with the City, in respect of the use of the Lands and the construction and use of the New Building, that throughout the Term:
 - (a) the Lands, the New Building and the For-Profit Affordable Rental Housing Units (including the Moderate Income Rental Housing Units) will not be used in any way that is inconsistent with the terms of this Agreement;
 - (b) at its sole cost and expense, it will construct not less than 24,650.3 square metres (265,334 square feet) in aggregate of floor area within the New Building, the E1 Building and F2 Building containing Dwelling Units for use only as Rental Housing and further, it will construct, fit and finish the New Building, including the For-Profit Affordable Rental Housing Units (including the Moderate Income Rental Housing Units) any amenities and parking spaces, in accordance with this Agreement, the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies, all to the satisfaction of the City;
 - (c) when the New Building is completed and an Occupancy Permit has been issued and thereafter throughout the Term, all of the Dwelling Units in the New Building will be used only for the purpose of providing For-Profit Affordable Rental Housing (the “For-Profit Affordable Rental Housing Units”), provided that:
 - (i) the For-Profit Affordable Rental Housing Units comprising not less than twenty-five (25%) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing (the “Moderate Income Rental Housing Units”); and

- (ii) not less than 6,162.6 square metres (66,334 square feet) of the aggregate residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building and the E1 Building will be used only for the purpose of providing Moderate Income Rental Housing;

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

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

Occupants of the Eligible Person's household as specified in the Tenancy Agreement between the Owner and the Eligible Person for the rental thereof;

- (iv) each Moderate Income Rental Housing Unit shall have at least one Occupant per bedroom thereof;
- (v) each Tenancy Agreement shall include:
 - (A) a clause requiring the Tenant and each permitted Occupant of the respective Moderate Income Rental Housing Unit to comply with this Agreement;
 - (B) the names of all Occupants of the respective Moderate Income Rental Housing Unit;
 - (C) a term that is either on a month-to-month basis or for a fixed term of one (1) year or less;
 - (D) one or more clauses providing that the Tenant acknowledges and agrees that, among other terms, the following are material terms of the Tenancy Agreement:
 - I. the Tenant is and remains an Eligible Person at all times during the term of the Tenancy Agreement;
 - II. any person not identified in the Tenancy Agreement shall not reside at the Moderate Income Rental Housing Unit for more than 60 consecutive days or more than 90 days total in any calendar year, unless the Tenant receives prior written consent from the Owner;
 - III. the Moderate Income Rental Housing Unit will have at least one Occupant per bedroom thereof;
 - IV. the Moderate Income Rental Housing Unit will not be vacant for six months or longer, cumulatively, within a calendar year, without the prior written consent of the Owner;
 - V. the Moderate Income Rental Housing Unit will at all times during the term of the Tenancy Agreement be the Principal Residence of the Tenant and the other Occupants in the Tenant's household as specified in the Tenancy Agreement; and
 - VI. the Tenant will not sublease the Moderate Income Rental Housing Unit or assign the Tenancy Agreement in whole or in part, except to an Eligible Person and with the written consent of the Owner, provided that it will not be unreasonable for the Owner to withhold such consent if the assignee or sublessee is not an Eligible Person; and

(E) a clause:

- I. wherein the Tenant consents to the collection, use and retention by the Owner and disclosure to the City of information, documentation and evidence described in Section 2.1(g); and
- II. requiring the Tenant to deliver to the Owner the information, documentation and evidence described in Section 2.1(g)(ii) every five (5) years following the date on which the Tenant first occupies the Moderate Income Rental Housing Unit,

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

(vi) subject to any contrary provisions in the *Residential Tenancy Act*, as determined to be contrary by a ruling or decision of any judicial body having jurisdiction, if the Tenant is in breach of any of the material terms described in Section 2.1(e)(v)(D), the Owner will take all necessary steps to end the tenancy of the Tenant in the respective Moderate Income Rental Housing Unit, which steps will include:

- (A) providing the Tenant with a written notice specifying the breach forthwith upon the Owner becoming aware of any breach;
- (B) providing the Tenant with a reasonable time to remedy the breach after such written notice has been provided;
- (C) if the Tenant does not remedy the breach within the time specified in Section 2.1(e)(vi)(B), providing the Tenant with a written notice of termination of the Tenancy Agreement that will be effective two (2) months, except in respect of a breach of the material terms specified in Sections 2.1(e)(v)(D)I to 2.1(e)(v)(D)III in which case the termination will be effective six (6) months, following the date that the Owner has delivered such written termination notice to the Tenant; and
- (D) causing all Occupants of the respective Moderate Income Rental Housing Unit to vacate the Moderate Income Rental Housing Unit upon the effective date of termination;

(f) if the Owner has terminated a Tenancy Agreement for the reasons specified in Sections 2.1(e)(v)(D)I to 2.1(e)(v)(D)III, the Owner shall offer another For-Profit Affordable Rental Housing Unit for rent to the former Tenant, subject to availability for rental of For-Profit Affordable Rental Housing Units and eligibility of the former Tenant in respect of other Moderate Income Rental Housing Units;

(g) in connection with Section 2.1(e), throughout the Term, the Owner shall:

- (i) prior to renting a Moderate Income Rental Housing Unit to a prospective tenant, or upon the change of any Occupants residing within a Moderate Income Rental Housing Unit from the Occupants listed in the Tenancy Agreement, verify, by obtaining all information, documentation or evidence necessary or such other information, documentation or evidence that the General Manager of Planning, Urban Design and Sustainability may deem necessary, that such prospective tenant is an Eligible Person and that there will be at least one Occupant per bedroom for such Moderate Income Rental Housing Unit upon occupancy; and
- (ii) not less than once every five (5) years after the date on which a Moderate Income Rental Housing Unit was rented to a Tenant, verify, by all information, documentation or evidence necessary or such other information, documentation or evidence that the General Manager of Planning, Urban Design and Sustainability may deem necessary, that such prospective tenant is an Eligible Person and that such Moderate Income Rental Housing Unit continues to have at least one Occupant per bedroom;
- (h) the Owner will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any For-Profit Affordable Rental Housing Unit for a term of less than one month at a time;
- (i) except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any For-Profit Affordable Rental Housing Unit to be sold or otherwise transferred unless title to every one of the For-Profit Affordable Rental Housing Unit is sold or otherwise transferred together and as a block to the same legal and beneficial owner, as applicable, and subject to Section 10.9;
- (j) the Owner will not suffer, cause or permit, the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided, whether by subdivision plan, strata plan or otherwise, without the prior written consent of the Director of Legal Services which consent may be arbitrarily withheld;
- (k) any sale of any For-Profit Affordable Rental Housing Unit in contravention of the covenant in Section 2.1(i), 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(j), 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;
- (l) the Owner 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;
- (m) if the New Building or any part thereof, is damaged, it will promptly restore and repair the same whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred reasonable wear and tear excepted;

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

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

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

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

<u>UNIT TYPE</u>	<u>AVERAGE MONTHLY STARTING RENTS (2017 rates prior to permitted adjustment)</u>
Studio	\$950
1 Bedroom	\$1,200
2 Bedrooms	\$1,600
3 Bedrooms	\$2,000

which rents will be subject to the annual maximum adjustment permitted under the *Residential Tenancy Act* from 2017, being the base year for which such rents were established, and the year in which the first Occupancy Permit is issued for the New Building;

- (ii) the unit numbers, unit type, unit size and rents to be charged by the Owner to the first Tenants of each of the Moderate Income Rental Housing Units in the New Building following issuance of the Occupancy Permit will be set out in a Moderate Income Rental Housing Rent Roll and delivered by the Owner to the City for approval by the General Manager of Planning, Urban Design

and Sustainability, in his or her sole discretion, prior to the issuance of each of the Development Permit, the Building Permit and the Occupancy Permit;

- (iii) following the issuance of the Occupancy Permit, subject to the terms of this Agreement, including, without limitation, that not less than twenty-five (25) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing and that not less than 6,162.6 square metres (66,334 square feet) of the aggregate residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building and the E1 Building will be used only for the purpose of providing Moderate Income Rental Housing and provided the Owner has received approval in writing from the General Manager of Planning, Urban Design and Sustainability, in his or her sole discretion, if a Moderate Income Rental Housing Unit is occupied by a Tenant who was formerly an Eligible Person but no longer meets the eligibility requirements therefor, the Owner may substitute and re-assign the designation of such Dwelling Unit as a Moderate Income Housing Rental Unit to another Dwelling Unit in the New Building, which is the same unit type and is equal to or greater in size to the Dwelling Unit being substituted, on a one-for-one basis, such that the unit type mix and number of Moderate Income Housing Rental Units in the New Building remain unchanged and the initial rent for the newly assigned Moderate Income Rental Housing Unit will be the same as the rent for the former Moderate Income Housing Rental Unit; and
- (iv) following the issuance of the Occupancy Permit, the Owner shall not increase the rents for any of the Moderate Income Rental Housing Units, except for annual increases in rent following the issuance of an Occupancy Permit by an amount not to exceed the annual allowable increase in rent permitted under the provisions of the *Residential Tenancy Act* and the *Residential Tenancy Regulation*, which as of the date of this Agreement, are Section 43(1) (a) of the *Residential Tenancy Act* and Section 22 of the *Residential Tenancy Regulation*, respectively (as each such section may be amended or replaced from time to time) and for clarity, the Owner shall not increase the rent for a Moderate Income Rental Housing Unit in any other circumstance, including but not limited to, any change in tenancy or occupancy of a Moderate Income Rental Housing Unit or any rent increases permitted under the *Residential Tenancy Act* or the *Residential Tenancy Regulation* for eligible capital expenses incurred with respect to the Building or a Moderate Income Rental Housing Unit.

ARTICLE 3 DEVELOPMENT RESTRICTION ON THE LANDS

3.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:

- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Development Permit, and will take no action, directly or indirectly, to compel the issuance of any Development

Permit, until such time as the Owner has delivered a Moderate Income Rental Housing Rent Roll to, and to the satisfaction of, the General Manager of Planning, Urban Design and Sustainability confirming the rents proposed to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit, and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Moderate Income Rental Housing Units in accordance with this Agreement; and

- (ii) the City will be under no obligation to issue any Development Permit until such time as the Owner has complied with Section 3.1(a)(i); and
- (b) without limiting the general scope of ARTICLE 8, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of a Development Permit until there is compliance with the provisions of this ARTICLE 3.

ARTICLE 4 BUILDING RESTRICTION ON THE LANDS

4.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:

- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Building Permit, and will take no action, directly or indirectly, to compel the issuance of any Building Permit, until such time as the Owner has delivered a Moderate Income Rental Housing Rent Roll to, and to the satisfaction of, the General Manager of Planning, Urban Design and Sustainability confirming the rents proposed to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit, and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Moderate Income Rental Housing Units in accordance with this Agreement and the Development Permit; and
 - (ii) the City will be under no obligation to issue any Building Permit until such time as the Owner has complied with Section 4.1(a)(i); and
- (b) without limiting the general scope of ARTICLE 8, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel

for any Losses that may derive from the withholding of a Development Permit until there is compliance with the provisions of this ARTICLE 4.

**ARTICLE 5
OCCUPANCY RESTRICTION ON THE LANDS**

- 5.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:
- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Occupancy Permit in respect of, and will not suffer or permit the occupation of, the New Building and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit until such time as:
 - (A) the Owner has delivered, to the satisfaction of the General Manager of Planning, Urban Design and Sustainability:
 - I. a Moderate Income Rental Housing Rent Roll confirming the rents to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Moderate Income Rental Housing Units in accordance with this Agreement and the Development Permit;
 - II. proof of the insurance, consistent with the requirements of Section 2.1(n), is in force and effect, in form and substance satisfactory to the City; and
 - (B) a final Occupancy Permit has been issued for all of the Pearson Supportive Units that are located within the New Building, pursuant to the Development Permit; 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 5.1(a)(i); and
 - (b) without limiting the general scope of ARTICLE 8, 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 5.

**ARTICLE 6
RECORD KEEPING**

- 6.1 The Owner will keep accurate records pertaining to the use, occupancy and rental rates charged of/for the Moderate Income Rental Housing Units, such records to be to the

satisfaction of the General Manager of Planning, Urban Design and Sustainability. The Owner will:

- (a) on each anniversary of the date of issuance of the first Occupancy Permit for any portion of the New Building or at the request of the City, provide an updated Moderate Income Rental Housing Report to the General Manager of Planning, Urban Design and Sustainability;
- (b) within ninety (90) days of:
 - (i) a change in any Occupant of a Moderate Income Rental Housing Unit;
 - (ii) the date that is the fifth anniversary of the date on which a Moderate Income Rental Housing Unit was rented to a Tenant and every five (5) years thereafter; and
 - (iii) at the request of the General Manager of Planning, Urban Design and Sustainability, from time to time,
 complete and deliver to the City a Statement of Moderate Income Rental Housing Unit Eligibility in respect of such Moderate Income Rental Housing Unit;
- (c) at the request of the General Manager of Planning, Urban Design and Sustainability, from time to time:
 - (i) make such records available for audit, inspection and copying by City staff, subject to applicable restrictions in any tenancy, privacy and other laws which place limitations on such disclosure; and
 - (ii) provide evidence of the insurance required to be taken out pursuant to Section 2.1(n); and
- (d) comply with the *Personal Information Protection Act* in collecting, using, retaining and disclosing the information of any person, Tenant or Occupant pursuant to its obligations under this Agreement and any Tenancy Agreement.

ARTICLE 7 ENFORCEMENT

- 7.1 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 8 RELEASE AND INDEMNITY

- 8.1 Release and Indemnity. Subject to Section 8.2, the Owner hereby:

- (a) will not make any claims against the City or City Personnel and releases and discharges the City and all City Personnel from and against all Losses which may

arise or accrue to the Owner in connection with this Agreement, including without limitation:

- (i) by reason of the City or City Personnel:
 - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - B. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement
 - C. withholding any permit pursuant to this Agreement; or
 - D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or
- (ii) that otherwise arise out of, or would not have been incurred but for this Agreement;

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

- (b) covenants and agrees to indemnify and save harmless the City and City Personnel, from and against all Losses which may arise or accrue to any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to, by reason of or which could not have been sustained "but for" any of the following:
 - (i) this Agreement;
 - (ii) the City or City Personnel:
 - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - B. withholding any permit pursuant to this Agreement;
 - C. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement; or
 - D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or

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

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

The indemnities in this ARTICLE 8 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted in this Agreement.

8.2 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 8.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 8.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 8.2(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 8.2(b); and

- (c) Regardless of whether the claim is being defended under Section 8.2(a) or Section 8.2(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.

- 8.3 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 9 NOTICES

- 9.1 All notices, demands or requests of any kind which one party may be required or permitted to give to the other in connection with this Agreement, will be in writing and will be given by registered mail or personal delivery, addressed as set forth below. Any such notice, demand or request will be deemed given:

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

If to the City, addressed to:

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

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

If to the Owner, addressed to:

Onni Pearson Dogwood Holdings Corp.
200-1010 Seymour Street
Vancouver, British Columbia
V6B 3M6

Attention: Legal Department

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 10 MISCELLANEOUS

- 10.1 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. Upon the sale or transfer of any legal or beneficial interest in the Lands and/or the New Building or any part thereof in accordance with the provisions of Section 10.9, the parties agree that the covenants and agreements herein contained shall only be binding upon the transferring party in respect of a breach or acts or omissions occurring during its ownership.

- 10.2 Agreement to be a First Charge. The Owner agrees to cause, at its sole cost and expense, the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:
- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
 - (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of any rezoning or any Development Permit; and
 - (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.
- 10.3 Application of Residential Tenancy Act to Termination Notice. The City agrees that, in the event the Owner delivers a termination notice to a Tenant pursuant to Section 2.1(e)(vi), and such termination notice is found to be ineffective by a ruling or decision of any judicial body having jurisdiction in connection with the *Residential Tenancy Act*, provided that the termination notice was not found to be ineffective by reason of an error by or the negligence of the Owner, including any error by the Owner in delivering the termination notice in accordance with, or complying with the applicable time limits in, the *Residential Tenancy Act* or *Residential Tenancy Regulation*, the Owner shall not be in breach of its obligation to ensure that:
- (a) not less than twenty-five (25) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing, as set out in Section 2.1(c) and not less than 6,162.6 square metres (66,334 square feet) of the aggregate residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building and the E1 Building will be used only for the purpose of providing Moderate Income Rental Housing, also as set out in Section 2.1(c), as a result of such termination notice being ineffective and for clarity, the Moderate Income Rental Housing Unit to which such ineffective termination notice relates shall continue to count towards the aforementioned twenty-five (25) percent of the residential floor areas and towards the aforementioned 6,162.6 square metres (66,334 square feet) of the aggregate residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building and the E1 Building, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant; and
 - (b) the Moderate Income Rental Housing Unit to which such ineffective termination notice relates shall not be rented, leased, licenced, used or otherwise permitted to be occupied unless it is rented, leased, licenced, used to or occupied by an Eligible

Person, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant.

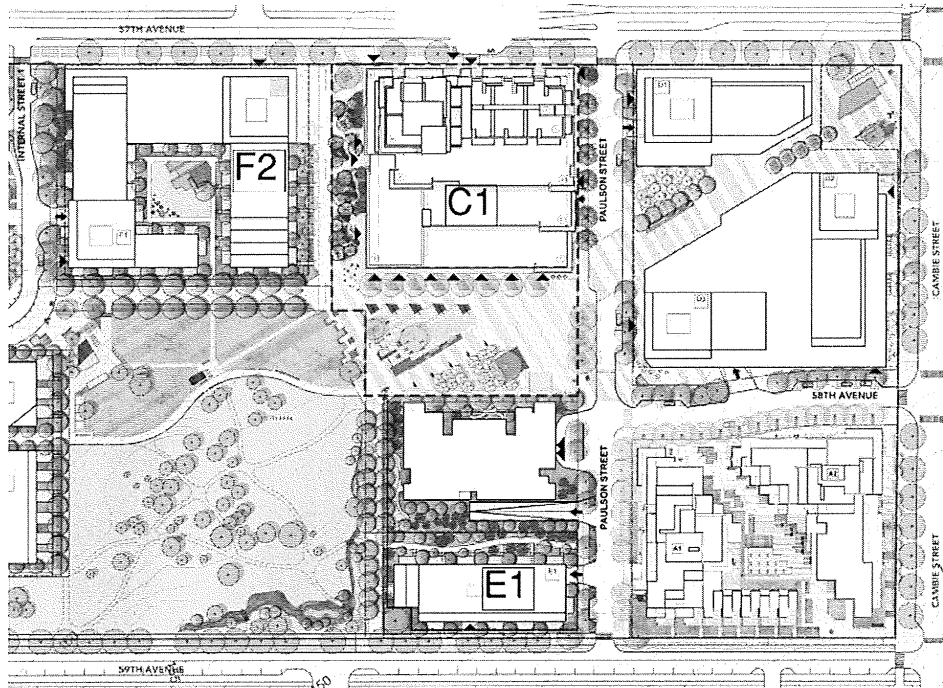
- 10.4 Enforcement. This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it will be entitled to court costs on a solicitor and own client basis.
- 10.5 Severability. All the obligations and covenants 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.
- 10.6 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.
- 10.7 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.
- 10.8 Further Assurances. The Owner will execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement including all acts necessary to ensure that this Agreement is noted on title to the Lands as a housing agreement pursuant to Section 565.2 of the *Vancouver Charter*.
- 10.9 Sale of Lands and New Building or Part Thereof. Prior to the sale or transfer of any legal or beneficial interest (other than (i) 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 or (ii) the transfer of an interest to an affiliate of the Owner), and subject always to Sections 2.1(i) and 2.1(j), the Owner of the Lands and the New Building will cause the purchaser/ transferee to enter into an assumption agreement with the City, in form and substance satisfactory to the Director of Legal Services, pursuant to which the purchaser/transferee will agree to be bound by all of the obligations, agreements and indemnities of such Owner under this Agreement. The provisions in this Section 10.9 will apply equally to all subsequent purchasers/transferees (other than a mortgagee that has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage).
- 10.10 Owner's Representations. The Owner represents and warrants to and covenants and agrees with the City that:

- (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all legal and beneficial interests in the title to the Lands with the interests in land created hereby;
 - (b) upon execution and delivery of this Agreement and registration thereof, the interests in land created hereby will encumber all legal and beneficial interests in the title to the Lands;
 - (c) this Agreement will be fully and completely binding upon the Owner in accordance with its terms and the Owner will perform all of its obligations under this Agreement in accordance with its terms; and
 - (d) the foregoing representations, warranties, covenants and agreement will have force and effect notwithstanding any knowledge on the part of the City whether actual or constructive concerning the status of the Owner with regard to the Lands or any other matter whatsoever.
- 10.11 Liability. Notwithstanding anything to the contrary contained herein, the Owner shall not be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Owner ceases to have any further interest in the Lands.
- 10.12 Enurement. This Agreement will enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement will enure to the benefit of and be binding upon the Owner and its successors and assigns.

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

SCHEDULE A

SKETCH PLAN SHOWING THE NEW BUILDING, THE E1 BUILDING AND THE F2 BUILDING



{01586031v1}

Housing Agreement and Building Use Covenant
500-650 West 57th Avenue (Building C1)

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Option to Purchase registered under number CA5042592;
- (b) "Existing Chargeholder" means VANCOUVER COASTAL HEALTH AUTHORITY;
- (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.

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA7121629, as modified by Modification CA7705081 and the Assignment of Rents registered under number CA7121630, as modified by Modification CA7705082;
- (b) "Existing Chargeholder" means HSBC BANK CANADA;
- (c) "New Charges" means the Housing Agreement and Section 219 Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

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

- (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: 500-650 West 57th Avenue (Building E1)**

After a public hearing on June 23, 2022 Council approved in principle the land owner's application to amend CD-1 (696) Pearson Dogwood By-law No. 12105, subject to, among other things, one or more Housing Agreements 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. This Housing Agreement is with respect to the lands on which Building E1 of the development will be situated.

Director of Legal Services
April 25, 2023



1. Application

SAMPSON DAVIE FANE VOLPIANA LLP
Barristers and Solicitors
408 - 355 Burrard Street
Vancouver BC V6C 2G8
604.343.1930

File No.: 1087-21-0273
 Attention: Alex Fane / Kelly Boreham
 Housing Agreement - Building E1

2. Description of Land

PID/Plan Number	Legal Description
030-587-913	LOT E DISTRICT LOT 526 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP86464

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Entire Instrument
PRIORITY AGREEMENT		granting the Covenant with one registration number less than this Priority Agreement priority over Option to Purchase CA5042592
PRIORITY AGREEMENT		granting the Covenant with one registration number less than this Priority Agreement priority over Mortgage CA7121629 (see CA7705081) and Assignment of Rents CA7121630 (see CA7705082)

4. Terms

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

5. Transferor(s)

ONNI PEARSON DOGWOOD HOLDINGS CORP., NO.BC1028296
VANCOUVER COASTAL HEALTH AUTHORITY, AS TO PRIORITY
HSBC BANK CANADA, 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

ONNI PEARSON DOGWOOD HOLDINGS CORP.

By its Authorized Signatory:

Name:

Officer Certification

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

Witnessing Officer Signature

Execution Date

Transferor / Transferee / Party Signature(s)



YYY-MM-DD
2023-04-11

VANCOUVER COASTAL HEALTH AUTHORITY

By its Authorized Signatory(ies):

WILLIAM POLLITT
Barrister & Solicitor
Vancouver Coastal Health Authority
 601 W. Broadway, 11th Floor
 Vancouver, BC V5Z 4C2



Name: VISHAAC DASOAK

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.




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)



 Jon Bunyan
 Barrister & Solicitor
 Onni Group
 200 - 1010 Seymour Street
 Vancouver, B.C., V6B 3M6

YYYY-MM-DD
 2023-04-05

ONNI PEARSON DOGWOOD HOLDINGS CORP.
 By its Authorized Signatory:



 Name: SAM PARROTT

Officer Certification: T: (604) 602 - 7711

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

VANCOUVER COASTAL HEALTH AUTHORITY
 By its Authorized Signatory(ies):

 Name:

 Name:

Officer Certification

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



Land Title Act
Charge
 General Instrument – Part 1

Witnessing Officer Signature

Execution Date

Transferor / Transferee / Party Signature(s)

YYYY-MM-DD
 2023-04-12

HSBC BANK CANADA
 By its Authorized Signatory(ies):

Name: Kristy Todd Miller
 Senior Director, CRE, HSBC

Name: **GARY KATAYAMA**
 Assistant Vice President
 Commercial Real Estate

ASHLEY HEMMING
 A Commissioner for Taking
 for British Columbia
 125 West Georgia St., Vancouver, BC
 Commission Expires: June 30, 2024

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
 By its Authorized Signatory:

 Name:

Officer Certification

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

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
SECURED RENTAL AND MODERATE INCOME RENTAL HOUSING500-650 WEST 57TH AVENUE
(BUILDING E1)

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- (i) the Transferor, ONNI PEARSON DOGWOOD HOLDINGS CORP., is called the "Owner", as more particularly defined in Section 1.1; and
 - (ii) the Transferee, City of Vancouver, is called the "City" or the "City of Vancouver" when referring to corporate entity continued under the *Vancouver Charter*, and "Vancouver" when referring to geographic location;
- B. The Owner is the registered owner of the Lands;
- C. The Owner made an application to rezone the Development Lands (including the Lands) (the "**Original Rezoning Application**") from RT-2 (Two-Family Dwelling) District to CD-1 (Comprehensive Development) District, which rezoning by-law was enacted in 2018 as CD-1 (696) By-law No. 12105 (the "**Original Rezoning By-law**")
- D. The Owner made a further application to rezone the Development Lands (including the Lands) by amendment to the Original Rezoning By-law (the "**Rezoning Application**") and after a public hearing to consider the Rezoning Application, the Rezoning Application was approved by City Council in principle, subject to, among other things, fulfilment of the condition that, prior to enactment of the amendment to the Original Rezoning By-law (upon enactment, the "**Rezoning By-law**"), the Owner make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement by by-law enacted pursuant to Section 565.2 of the *Vancouver Charter* securing all of the residential units on the Lands as secured rental housing units with at least twenty-five (25%) percent of the residential floor areas counted in the calculation of the floor space ratio secured as Moderate Income Rental Housing Units pursuant to Section 3.1A of the Vancouver DCL Bylaw, for the longer of 60 years and life of the New Building and further that not less than 24,650.3 square metres (265,334 square feet) of residential units in the New Building, the C1 Building and the F2 Building are secured as rental housing units and that not less than 6,162.6 square metres (66,334 square feet) of the residential floor areas counted in the calculation of the floor space ratio of the New Building and the C1 Building are secured as Moderate Income Rental Housing Units and subject to other conditions set forth in the minutes of the public hearing (collectively, the "**Housing Condition**"); and
- E. The Owner is entering into this Agreement to satisfy the Housing Condition.

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration (the receipt and sufficiency of which the parties hereby acknowledge and agree to) the Owner and the City, in satisfaction of the requirements of Section 3.1A of the Vancouver DCL By-law and

pursuant to Section 565.2 of the *Vancouver Charter* and Section 219 of the *Land Title Act*, agree as follows, in respect of the use of the Lands and the New Building:

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

1.1 Definitions. Terms defined in this Section 1.1, unless specifically otherwise provided in this Agreement, will have the following meanings:

- (a) "**Agreement**" means this housing agreement and building use covenant, including the foregoing recitals and all schedules hereto;
- (b) "**Building Permit**" means any building permit issued by the City authorizing the building of a New Building as contemplated by the Rezoning By-law and the Development Permit;
- (c) "**C1 Building**" means the new building or structure to be built on the C1 Lands, as shown on the plan attached hereto in Schedule A, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the C1 Lands during the period of, and required for the purposes of, any construction;
- (d) "**C1 Lands**" means the parcel of land situate in Vancouver, British Columbia, and legally described as:

PID: 030-587-875

LOT C DISTRICT LOT 526 GROUP 1 NEW WESTMINSTER DISTRICT PLAN
EPP86464

and includes any parcels into which such land is consolidated or further subdivided;

- (e) "**City**" and "**City of Vancouver**" have the meaning ascribed to those terms in Recital A(ii);
- (f) "**City Manager**" means the chief administrator from time to time of the City and his or her successors in function and their respective nominees;
- (g) "**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;
- (h) "**Development Lands**" means the lands formerly legally described as Lots 1 to 5, all of Block 1004, District Lot 526, Plan 20607, PIDs: 002-395-355, 002-395-363, 002-395-380, 002-395-398 and 002-395-401 respectively;
- (i) "**Development Permit**" means any development permit issued by the City authorizing the development of the Lands contemplated by the Rezoning By-law;

- (j) **"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;
- (k) **"Dwelling Unit"** has the meaning set out in the City's Zoning and Development By-law No. 3575, as amended or replaced from time to time;
- (l) **"Effective Date"** means the date as of which this Agreement has been executed by all parties to it;
- (m) **"Eligible Person"** means a person who:
 - (i) at the beginning of such person's tenancy of a Moderate Income Rental Housing Unit, together with all other Occupants of such Moderate Income Rental Housing Unit, have an aggregate annual household Income that is less than or equal to four (4) times the annual rent of such Moderate Income Rental Housing Unit;
 - (ii) thereafter throughout such person's tenancy of a Moderate Income Rental Housing Unit, together with all other Occupants of such Moderate Income Rental Housing Unit, have an aggregate annual household Income that is less than or equal to five (5) times the annual rent of such Moderate Income Rental Housing Unit; and
 - (iii) throughout such person's tenancy of a Moderate Income Rental Housing Unit, will:
 - (A) not permit such Moderate Income Rental Housing Unit to be occupied by a person or persons other than those persons identified in the Tenancy Agreement for more than 60 consecutive days or more than 90 days in total in any calendar year, without the prior written consent of the Owner;
 - (B) not permit such Moderate Income Rental Housing Unit to be occupied by a total number of Occupants less than the total number of bedrooms therein;
 - (C) occupy such Moderate Income Rental Housing Unit as his or her Principal Residence and not permit any Occupant to occupy such Moderate Income Rental Housing Unit unless such Moderate Income Rental Housing Unit is the Occupant's Principal Residence;
 - (D) not permit such Moderate Income Rental Housing Unit to be vacant for a period of six months or longer, cumulatively within a calendar year, without the prior written consent of the Owner; and
 - (E) not sublet such Moderate Income Rental Housing Unit or assign the Tenancy Agreement in whole or in part;
- (n) **"F2 Building"** means the new building or structure to be built on the F2 Lands, as shown on the plan attached hereto in Schedule A, and includes any portion of any

such building or structure, but does not include temporary buildings or structures on the F2 Lands during the period of, and required for the purposes of, any construction;

- (o) **"F2 Lands"** means the parcel of land situate in Vancouver, British Columbia, and legally described as:

PID: 030-430-631

LOT A BLOCK 1004 DISTRICT LOT 526 GROUP 1 NEW WESTMINSTER DISTRICT
PLAN EPP79678 EXCEPT PLAN EPP86464

and includes any parcels into which such land is consolidated or further subdivided;

- (p) **"Floor Space Ratio"** means the figure obtained when the area of the floors of the New Building is divided by the area of the Lands;
- (q) **"For-Profit Affordable Rental Housing"** means multiple Dwelling Units within a building for use as Rental Housing which meets the requirements of Section 3.1A of the Vancouver DCL By-law to be "for-profit affordable rental housing" (as defined therein);
- (r) **"For-Profit Affordable Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(c) and **"For-Profit Affordable Rental Housing Unit"** means any one of such units;
- (s) **"General Manager of Planning, Urban Design and Sustainability"** means the person appointed from time to time as the City's General Manager of Planning, Urban Design and Sustainability and his/her successors in function and delegates and their respective nominees;
- (t) **"Income"** of an Occupant means the total annual world-wide income before income tax from all sources of the Occupant and includes without limitation, the following income sources:
- (i) income assistance;
 - (ii) employment, including regular overtime, vacation pay and gratuities;
 - (iii) self-employment, including commission sales;
 - (iv) seasonal employment;
 - (v) Employment Insurance and WorkSafe BC insurance;
 - (vi) training allowances;
 - (vii) income from the Resettlement Assistance Program;
 - (viii) child support, maintenance payments or support from family/friends/community;

- (ix) rental income from real estate or dividends from stocks or bonds, if the real monthly Income is greater than the imputed Income from the Asset; and
- (x) pension incomes including:
 - (A) old Age Security, Guaranteed Income Supplement, Allowance, and Allowance for the Survivor (formerly Spousal Allowance);
 - (B) senior's supplement;
 - (C) private pension plans including Registered Retirement Income Funds;
 - (D) Canada Pension Plan, including retirement, disability, orphans, widows, disability for child, etc.
 - (E) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada (included for calculations with an effective date prior to January, 2013); and
 - (F) foreign pensions,

but does not include:

- (xi) earnings of dependent children aged 18 and under (regardless of student status);
- (xii) student loans, equalization payments, student grants and scholarships;
- (xiii) taxable benefits, including living out or travel allowances, medical coverage, uniform allowance, etc.;
- (xiv) Shelter Aid for Elderly Renters and Rental Assistance Program payments;
- (xv) Canada Child Tax Benefits, including the National Child Benefit Supplement, Child Disability Benefit, BC Family Bonus, and BC Earned Income Benefit;
- (xvi) Universal Child Care Benefits;
- (xvii) BC Childcare Subsidy;
- (xviii) income from foster parenting;
- (xix) Child in Home of Relative and Extended Family Program;
- (xx) income from approved live-in care givers;
- (xxi) GST and Income Tax rebates; and

- (xxii) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada;
- (u) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
- (v) "**Lands**" means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the Form C - General Instrument - Part 1, and includes any parcels into which such land is consolidated or further subdivided;
- (w) "**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;
- (x) "**Moderate Income Rental Housing**" means a portion of the For-Profit Affordable Rental Housing in a building that is comprised of at least 25% of the residential floor area that is counted in the calculation of the Floor Space Ratio consisting of Dwelling Units with average rents per unit type that meet the requirements of Section 2.1(p) of this Agreement, are made available for rent only to Eligible Persons in accordance with this Agreement and comply with the Moderate Income Rental Housing Pilot Program Rezoning Policy;
- (y) "**Moderate Income Rental Housing Pilot Program Rezoning Policy**" means the pilot program policy adopted by City Council on November 28, 2017, as amended on December 5, 2017, May 4, 2018, November 26, 2019 and July 21, 2021 which pilot program policy provides for, *inter alia*, the process, project requirements and available incentives for the development of new buildings where 100% of the residential floor area is secured rental housing and at least 20% of the residential floor area that is counted in the calculation of the Floor Space Ratio is made available to moderate income households;
- (z) "**Moderate Income Rental Housing Rent Roll**" means a rent roll report providing information regarding each of the Moderate Income Rental Housing Units, including the unit number, unit type, unit size and rent;
- (aa) "**Moderate Income Rental Housing Report**" means a notarized annual report prepared by the Owner and delivered to the City providing information regarding each of the Moderate Income Rental Housing Units, including but not limited to the following:
 - (i) unit number for the Moderate Income Rental Housing Unit;
 - (ii) monthly rent rate;
 - (iii) aggregate household Income of the Occupants, based on the most current information available to the Owner pursuant to Section 2.1(g);
 - (iv) number of Occupants residing therein;

- (v) number of bedrooms contained therein;
- (vi) length of occupancy of the current Tenant; and
- (vii) the results of the verification conducted by the Owner pursuant to Section 2.1(g); and

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

- (bb) **"Moderate Income Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(c) and **"Moderate Income Rental Housing Unit"** means any one of such units;
- (cc) **"New Building"** means the new building or structure to be built on the Lands, as shown on the plan attached hereto in Schedule A, 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;
- (dd) **"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;
- (ee) **"Occupants"** means persons for whom a Rental Housing Unit serves as their Principal Residence and an **"Occupant"** means any one of them, as the context requires;
- (ff) **"Owner"** means the registered owner of the Lands as of the Effective Date, namely, Onni Pearson Dogwood Holdings Corp. and its successors and assigns;
- (gg) **"Pearson Supportive Units"** means the residential care units, being constructed on the Development Lands as replacements of the residential care units in the George Pearson Centre that has or will be demolished as part of the redevelopment of the Development Lands;
- (hh) **"Personal Information Protection Act"** means the *Personal Information Protection Act*, S.B.C. 2003, c.63, and all amendments thereto and re-enactments thereof;
- (ii) **"Principal Residence"** means the usual place where an individual lives, makes his or her home and conducts his or her daily affairs, including, without limitation, paying bills and receiving mail, and is generally the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver's licenses, personal identification, vehicle registration and utility bills and, for the purposes of this agreement, a person may only have one principal residence;
- (jj) **"Related Person"** means, where the registered or beneficial owner of the Rental Housing Units is:

- (i) a corporation (as that term is defined in the *Business Corporations Act*, S.B.C. 2002, c.57, then a Related Person is:
 - (A) an officer, director or shareholder of such Owner or of another entity which is a shareholder of such Owner; or
 - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder; and
 - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (kk) "**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;
- (ll) "**Replacement For-Profit Affordable Rental Housing Units**" has the meaning ascribed to that term in Section 2.1(c) and "**Replacement For-Profit Affordable Rental Housing Unit**" means one such unit;
- (mm) "**Replacement Moderate Income Rental Housing Units**" has the meaning ascribed to that term in Section 2.1(c) and "**Replacement Moderate Income Rental Housing Unit**" means one such unit;
- (nn) "**Residential Tenancy Act**" means the *Residential Tenancy Act* S.B.C. 2002, c. 78 and all amendments thereto and re-enactments thereof;
- (oo) "**Residential Tenancy Regulation**" means the *Residential Tenancy Regulation*, B.C. Reg. 477/2003 and all amendments thereto and re-enactments thereof;
- (pp) "**Rezoning Application**" has the meaning ascribed to that term in Recital C;
- (qq) "**Rezoning By-law**" has the meaning ascribed to that term in Recital C;
- (rr) "**Statement of Moderate Income Rental Housing Unit Eligibility**" means a notarized statement, prepared by the Owner and delivered to the City, that states the following in respect of a Moderate Income Rental Housing Unit:
- (i) confirmation that, to the best of the Owner's knowledge based on the most current information available to the Owner pursuant to Section 2.1(g), the Tenant of such Moderate Income Rental Housing Unit is an Eligible Person;
 - (ii) description of all of the actions and procedures that the Owner has undertaken to verify that the Tenant of such Moderate Income Rental Housing Unit is an Eligible Person; and

- (iii) such other information regarding such Moderate Income Rental Housing Unit and its Occupants as the General Manager of Planning, Urban Design and Sustainability may otherwise require;

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

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

1.2 Interpretation. In this Agreement:

- (a) Party. Any reference to a party herein will be deemed to include the heirs, executors, administrators, successors, assigns, employees, servants, agents, officers, contractors, licensees and invitees of such parties wherever the context so permits or requires.
- (b) Singular; Gender. Wherever the singular or masculine or neuter is used in this Agreement, the same will be construed to mean the plural or the feminine or body corporate or politic, and vice versa, as the context or the parties so require.
- (c) Captions and Headings. The captions and headings appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any of the provisions hereof.
- (d) References. References to the or this "**Agreement**" and the words "**hereof**" "**herein**" and similar words refer to this Agreement as a whole and not to any section or subsection or other subdivision hereof and any reference in this Agreement to a

designated Recital, Section, subsection or other subdivision is a reference to the designated Recital, Section, subsection or subdivision hereof.

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

ARTICLE 2 RESTRICTIONS ON USE OF LANDS AND SUBDIVISION

- 2.1 The Owner covenants and agrees with the City, in respect of the use of the Lands and the construction and use of the New Building, that throughout the Term:
- (a) the Lands, the New Building and the For-Profit Affordable Rental Housing Units (including the Moderate Income Rental Housing Units) will not be used in any way that is inconsistent with the terms of this Agreement;
 - (b) at its sole cost and expense, it will construct not less than 24,650.3 square metres (265,334 square feet) in aggregate of floor area within the New Building, the C1 Building and F2 Building containing Dwelling Units for use only as Rental Housing and further, it will construct, fit and finish the New Building, including the For-Profit Affordable Rental Housing Units (including the Moderate Income Rental Housing Units) any amenities and parking spaces, in accordance with this Agreement, the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies, all to the satisfaction of the City;
 - (c) when the New Building is completed and an Occupancy Permit has been issued and thereafter throughout the Term, all of the Dwelling Units in the New Building will be used only for the purpose of providing For-Profit Affordable Rental Housing (the “**For-Profit Affordable Rental Housing Units**”), provided that:
 - (i) the For-Profit Affordable Rental Housing Units comprising not less than twenty-five (25%) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing (the “**Moderate Income Rental Housing Units**”); and

- (ii) not less than 6,162.6 square metres (66,334 square feet) of the aggregate residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building and the C1 Building will be used only for the purpose of providing Moderate Income Rental Housing;

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

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

Occupants of the Eligible Person's household as specified in the Tenancy Agreement between the Owner and the Eligible Person for the rental thereof;

- (iv) each Moderate Income Rental Housing Unit shall have at least one Occupant per bedroom thereof;
- (v) each Tenancy Agreement shall include:
 - (A) a clause requiring the Tenant and each permitted Occupant of the respective Moderate Income Rental Housing Unit to comply with this Agreement;
 - (B) the names of all Occupants of the respective Moderate Income Rental Housing Unit;
 - (C) a term that is either on a month-to-month basis or for a fixed term of one (1) year or less;
 - (D) one or more clauses providing that the Tenant acknowledges and agrees that, among other terms, the following are material terms of the Tenancy Agreement:
 - I. the Tenant is and remains an Eligible Person at all times during the term of the Tenancy Agreement;
 - II. any person not identified in the Tenancy Agreement shall not reside at the Moderate Income Rental Housing Unit for more than 60 consecutive days or more than 90 days total in any calendar year, unless the Tenant receives prior written consent from the Owner;
 - III. the Moderate Income Rental Housing Unit will have at least one Occupant per bedroom thereof;
 - IV. the Moderate Income Rental Housing Unit will not be vacant for six months or longer, cumulatively, within a calendar year, without the prior written consent of the Owner;
 - V. the Moderate Income Rental Housing Unit will at all times during the term of the Tenancy Agreement be the Principal Residence of the Tenant and the other Occupants in the Tenant's household as specified in the Tenancy Agreement; and
 - VI. the Tenant will not sublease the Moderate Income Rental Housing Unit or assign the Tenancy Agreement in whole or in part, except to an Eligible Person and with the written consent of the Owner, provided that it will not be unreasonable for the Owner to withhold such consent if the assignee or sublessee is not an Eligible Person; and

(E) a clause:

- I. wherein the Tenant consents to the collection, use and retention by the Owner and disclosure to the City of information, documentation and evidence described in Section 2.1(g); and
- II. requiring the Tenant to deliver to the Owner the information, documentation and evidence described in Section 2.1(g)(ii) every five (5) years following the date on which the Tenant first occupies the Moderate Income Rental Housing Unit,

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

- (vi) subject to any contrary provisions in the *Residential Tenancy Act*, as determined to be contrary by a ruling or decision of any judicial body having jurisdiction, if the Tenant is in breach of any of the material terms described in Section 2.1(e)(v)(D), the Owner will take all necessary steps to end the tenancy of the Tenant in the respective Moderate Income Rental Housing Unit, which steps will include:
- (A) providing the Tenant with a written notice specifying the breach forthwith upon the Owner becoming aware of any breach;
 - (B) providing the Tenant with a reasonable time to remedy the breach after such written notice has been provided;
 - (C) if the Tenant does not remedy the breach within the time specified in Section 2.1(e)(vi)(B), providing the Tenant with a written notice of termination of the Tenancy Agreement that will be effective two (2) months, except in respect of a breach of the material terms specified in Sections 2.1(e)(v)(D)I to 2.1(e)(v)(D)III in which case the termination will be effective six (6) months, following the date that the Owner has delivered such written termination notice to the Tenant; and
 - (D) causing all Occupants of the respective Moderate Income Rental Housing Unit to vacate the Moderate Income Rental Housing Unit upon the effective date of termination;
- (f) if the Owner has terminated a Tenancy Agreement for the reasons specified in Sections 2.1(e)(v)(D)I to 2.1(e)(v)(D)III, the Owner shall offer another For-Profit Affordable Rental Housing Unit for rent to the former Tenant, subject to availability for rental of For-Profit Affordable Rental Housing Units and eligibility of the former Tenant in respect of other Moderate Income Rental Housing Units;
- (g) in connection with Section 2.1(e), throughout the Term, the Owner shall:

- (i) prior to renting a Moderate Income Rental Housing Unit to a prospective tenant, or upon the change of any Occupants residing within a Moderate Income Rental Housing Unit from the Occupants listed in the Tenancy Agreement, verify, by obtaining all information, documentation or evidence necessary or such other information, documentation or evidence that the General Manager of Planning, Urban Design and Sustainability may deem necessary, that such prospective tenant is an Eligible Person and that there will be at least one Occupant per bedroom for such Moderate Income Rental Housing Unit upon occupancy; and
- (ii) not less than once every five (5) years after the date on which a Moderate Income Rental Housing Unit was rented to a Tenant, verify, by all information, documentation or evidence necessary or such other information, documentation or evidence that the General Manager of Planning, Urban Design and Sustainability may deem necessary, that such prospective tenant is an Eligible Person and that such Moderate Income Rental Housing Unit continues to have at least one Occupant per bedroom;
- (h) the Owner will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any For-Profit Affordable Rental Housing Unit for a term of less than one month at a time;
- (i) except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any For-Profit Affordable Rental Housing Unit to be sold or otherwise transferred unless title to every one of the For-Profit Affordable Rental Housing Unit is sold or otherwise transferred together and as a block to the same legal and beneficial owner, as applicable, and subject to Section 10.9;
- (j) the Owner will not suffer, cause or permit, the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided, whether by subdivision plan, strata plan or otherwise, without the prior written consent of the Director of Legal Services which consent may be arbitrarily withheld;
- (k) any sale of any For-Profit Affordable Rental Housing Unit in contravention of the covenant in Section 2.1(i), 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(j), 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;
- (l) the Owner 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;
- (m) if the New Building or any part thereof, is damaged, it will promptly restore and repair the same whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred reasonable wear and tear excepted;

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

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

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

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

<u>UNIT TYPE</u>	<u>AVERAGE MONTHLY STARTING RENTS (2017 rates prior to permitted adjustment)</u>
Studio	\$950
1 Bedroom	\$1,200
2 Bedrooms	\$1,600
3 Bedrooms	\$2,000

which rents will be subject to the annual maximum adjustment permitted under the *Residential Tenancy Act* from 2017, being the base year for which such rents were established, and the year in which the first Occupancy Permit is issued for the New Building;

- (ii) the unit numbers, unit type, unit size and rents to be charged by the Owner to the first Tenants of each of the Moderate Income Rental Housing Units in the New Building following issuance of the Occupancy Permit will be set out in a Moderate Income Rental Housing Rent Roll and delivered by the Owner to the City for approval by the General Manager of Planning, Urban Design

and Sustainability, in his or her sole discretion, prior to the issuance of each of the Development Permit, the Building Permit and the Occupancy Permit;

- (iii) following the issuance of the Occupancy Permit, subject to the terms of this Agreement, including, without limitation, that not less than twenty-five (25) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing and that not less than 6,162.6 square metres (66,334 square feet) of the aggregate residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building and the C1 Building will be used only for the purpose of providing Moderate Income Rental Housing and provided the Owner has received approval in writing from the General Manager of Planning, Urban Design and Sustainability, in his or her sole discretion, if a Moderate Income Rental Housing Unit is occupied by a Tenant who was formerly an Eligible Person but no longer meets the eligibility requirements therefor, the Owner may substitute and re-assign the designation of such Dwelling Unit as a Moderate Income Housing Rental Unit to another Dwelling Unit in the New Building, which is the same unit type and is equal to or greater in size to the Dwelling Unit being substituted, on a one-for-one basis, such that the unit type mix and number of Moderate Income Housing Rental Units in the New Building remain unchanged and the initial rent for the newly assigned Moderate Income Rental Housing Unit will be the same as the rent for the former Moderate Income Housing Rental Unit; and
- (iv) following the issuance of the Occupancy Permit, the Owner shall not increase the rents for any of the Moderate Income Rental Housing Units, except for annual increases in rent following the issuance of an Occupancy Permit by an amount not to exceed the annual allowable increase in rent permitted under the provisions of the *Residential Tenancy Act* and the *Residential Tenancy Regulation*, which as of the date of this Agreement, are Section 43(1) (a) of the *Residential Tenancy Act* and Section 22 of the *Residential Tenancy Regulation*, respectively (as each such section may be amended or replaced from time to time) and for clarity, the Owner shall not increase the rent for a Moderate Income Rental Housing Unit in any other circumstance, including but not limited to, any change in tenancy or occupancy of a Moderate Income Rental Housing Unit or any rent increases permitted under the *Residential Tenancy Act* or the *Residential Tenancy Regulation* for eligible capital expenses incurred with respect to the Building or a Moderate Income Rental Housing Unit.

ARTICLE 3 DEVELOPMENT RESTRICTION ON THE LANDS

3.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:

- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Development Permit, and will take no action, directly or indirectly, to compel the issuance of any Development

Permit, until such time as the Owner has delivered a Moderate Income Rental Housing Rent Roll to, and to the satisfaction of, the General Manager of Planning, Urban Design and Sustainability confirming the rents proposed to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit, and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Moderate Income Rental Housing Units in accordance with this Agreement; and

- (ii) the City will be under no obligation to issue any Development Permit until such time as the Owner has complied with Section 3.1(a)(i); and
- (b) without limiting the general scope of ARTICLE 8, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of a Development Permit until there is compliance with the provisions of this ARTICLE 3.

ARTICLE 4 BUILDING RESTRICTION ON THE LANDS

4.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:

- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Building Permit, and will take no action, directly or indirectly, to compel the issuance of any Building Permit, until such time as the Owner has delivered a Moderate Income Rental Housing Rent Roll to, and to the satisfaction of, the General Manager of Planning, Urban Design and Sustainability confirming the rents proposed to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit, and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Moderate Income Rental Housing Units in accordance with this Agreement and the Development Permit; and
 - (ii) the City will be under no obligation to issue any Building Permit until such time as the Owner has complied with Section 4.1(a)(i); and
- (b) without limiting the general scope of ARTICLE 8, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel

for any Losses that may derive from the withholding of a Development Permit until there is compliance with the provisions of this ARTICLE 4.

**ARTICLE 5
OCCUPANCY RESTRICTION ON THE LANDS**

5.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:

- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Occupancy Permit in respect of, and will not suffer or permit the occupation of, the New Building and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit until such time as:
 - (A) the Owner has delivered, to the satisfaction of the General Manager of Planning, Urban Design and Sustainability:
 - I. a Moderate Income Rental Housing Rent Roll confirming the rents to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Moderate Income Rental Housing Units in accordance with this Agreement and the Development Permit;
 - II. proof of the insurance, consistent with the requirements of Section 2.1(n), is in force and effect, in form and substance satisfactory to the City; and
 - (B) a final Occupancy Permit has been issued for all of the Pearson Supportive Units that are located within the New Building, pursuant to the Development Permit; 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 5.1(a)(i); and
- (b) without limiting the general scope of ARTICLE 8, 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 5.

**ARTICLE 6
RECORD KEEPING**

6.1 The Owner will keep accurate records pertaining to the use, occupancy and rental rates charged of/for the Moderate Income Rental Housing Units, such records to be to the

satisfaction of the General Manager of Planning, Urban Design and Sustainability. The Owner will:

- (a) on each anniversary of the date of issuance of the first Occupancy Permit for any portion of the New Building or at the request of the City, provide an updated Moderate Income Rental Housing Report to the General Manager of Planning, Urban Design and Sustainability;
- (b) within ninety (90) days of:
 - (i) a change in any Occupant of a Moderate Income Rental Housing Unit;
 - (ii) the date that is the fifth anniversary of the date on which a Moderate Income Rental Housing Unit was rented to a Tenant and every five (5) years thereafter; and
 - (iii) at the request of the General Manager of Planning, Urban Design and Sustainability, from time to time,
 complete and deliver to the City a Statement of Moderate Income Rental Housing Unit Eligibility in respect of such Moderate Income Rental Housing Unit;
- (c) at the request of the General Manager of Planning, Urban Design and Sustainability, from time to time:
 - (i) make such records available for audit, inspection and copying by City staff, subject to applicable restrictions in any tenancy, privacy and other laws which place limitations on such disclosure; and
 - (ii) provide evidence of the insurance required to be taken out pursuant to Section 2.1(n); and
- (d) comply with the *Personal Information Protection Act* in collecting, using, retaining and disclosing the information of any person, Tenant or Occupant pursuant to its obligations under this Agreement and any Tenancy Agreement.

ARTICLE 7 ENFORCEMENT

- 7.1 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 8 RELEASE AND INDEMNITY

- 8.1 Release and Indemnity. Subject to Section 8.2, the Owner hereby:

- (a) will not make any claims against the City or City Personnel and releases and discharges the City and all City Personnel from and against all Losses which may

arise or accrue to the Owner in connection with this Agreement, including without limitation:

- (i) by reason of the City or City Personnel:
 - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - B. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement
 - C. withholding any permit pursuant to this Agreement; or
 - D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or
- (ii) that otherwise arise out of, or would not have been incurred but for this Agreement;

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

- (b) covenants and agrees to indemnify and save harmless the City and City Personnel, from and against all Losses which may arise or accrue to any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to, by reason of or which could not have been sustained "but for" any of the following:
 - (i) this Agreement;
 - (ii) the City or City Personnel:
 - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - B. withholding any permit pursuant to this Agreement;
 - C. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement; or
 - D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or

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

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

The indemnities in this ARTICLE 8 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted in this Agreement.

8.2 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 8.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 8.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 8.2(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 8.2(b); and

- (c) Regardless of whether the claim is being defended under Section 8.2(a) or Section 8.2(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.

- 8.3 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 9 NOTICES

- 9.1 All notices, demands or requests of any kind which one party may be required or permitted to give to the other in connection with this Agreement, will be in writing and will be given by registered mail or personal delivery, addressed as set forth below. Any such notice, demand or request will be deemed given:

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

If to the City, addressed to:

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

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

If to the Owner, addressed to:

Onni Pearson Dogwood Holdings Corp.
200-1010 Seymour Street
Vancouver, British Columbia
V6B 3M6

Attention: Legal Department

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 10 MISCELLANEOUS

- 10.1 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. Upon the sale or transfer of any legal or beneficial interest in the Lands and/or the New Building or any part thereof in accordance with the provisions of Section 10.9, the parties agree that the covenants and agreements herein contained shall only be binding upon the transferring party in respect of a breach or acts or omissions occurring during its ownership.

- 10.2 Agreement to be a First Charge. The Owner agrees to cause, at its sole cost and expense, the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:
- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
 - (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of any rezoning or any Development Permit; and
 - (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.
- 10.3 Application of Residential Tenancy Act to Termination Notice. The City agrees that, in the event the Owner delivers a termination notice to a Tenant pursuant to Section 2.1(e)(vi), and such termination notice is found to be ineffective by a ruling or decision of any judicial body having jurisdiction in connection with the *Residential Tenancy Act*, provided that the termination notice was not found to be ineffective by reason of an error by or the negligence of the Owner, including any error by the Owner in delivering the termination notice in accordance with, or complying with the applicable time limits in, the *Residential Tenancy Act* or *Residential Tenancy Regulation*, the Owner shall not be in breach of its obligation to ensure that:
- (a) not less than twenty-five (25) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing, as set out in Section 2.1(c) and not less than 6,162.6 square metres (66,334 square feet) of the aggregate residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building and the C1 Building will be used only for the purpose of providing Moderate Income Rental Housing, also as set out in Section 2.1(c), as a result of such termination notice being ineffective and for clarity, the Moderate Income Rental Housing Unit to which such ineffective termination notice relates shall continue to count towards the aforementioned twenty-five (25) percent of the residential floor areas and towards the aforementioned 6,162.6 square metres (66,334 square feet) of the aggregate residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building and the C1 Building, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant; and
 - (b) the Moderate Income Rental Housing Unit to which such ineffective termination notice relates shall not be rented, leased, licenced, used or otherwise permitted to be occupied unless it is rented, leased, licenced, used to or occupied by an Eligible

Person, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant.

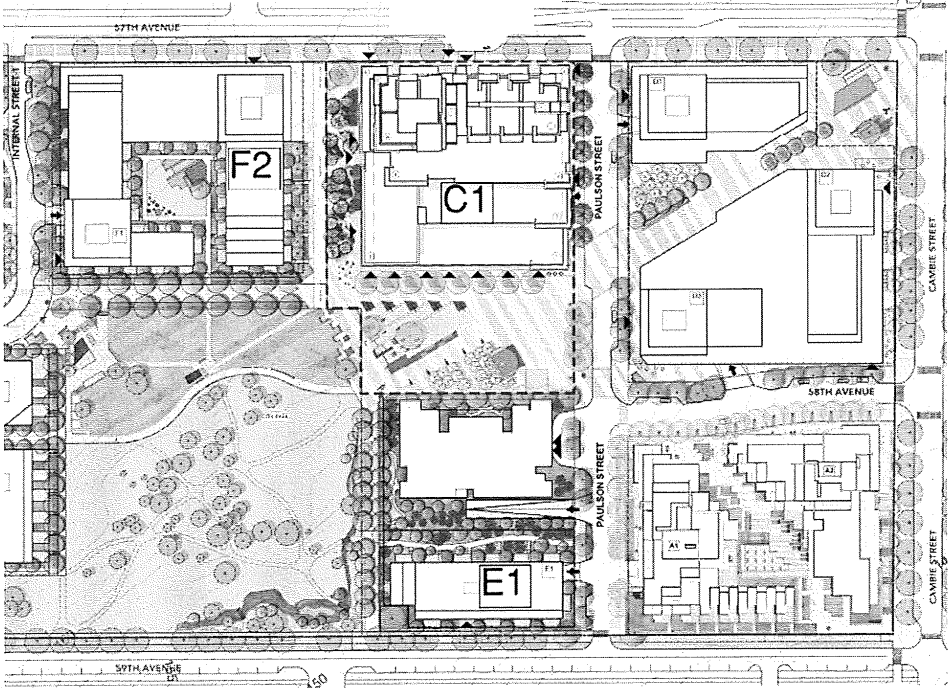
- 10.4 Enforcement. This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it will be entitled to court costs on a solicitor and own client basis.
- 10.5 Severability. All the obligations and covenants 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.
- 10.6 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.
- 10.7 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.
- 10.8 Further Assurances. The Owner will execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement including all acts necessary to ensure that this Agreement is noted on title to the Lands as a housing agreement pursuant to Section 565.2 of the *Vancouver Charter*.
- 10.9 Sale of Lands and New Building or Part Thereof. Prior to the sale or transfer of any legal or beneficial interest (other than (i) 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 or (ii) the transfer of an interest to an affiliate of the Owner), and subject always to Sections 2.1(i) and 2.1(j), the Owner of the Lands and the New Building will cause the purchaser/ transferee to enter into an assumption agreement with the City, in form and substance satisfactory to the Director of Legal Services, pursuant to which the purchaser/transferee will agree to be bound by all of the obligations, agreements and indemnities of such Owner under this Agreement. The provisions in this Section 10.9 will apply equally to all subsequent purchasers/transferees (other than a mortgagee that has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage).
- 10.10 Owner's Representations. The Owner represents and warrants to and covenants and agrees with the City that:

- (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all legal and beneficial interests in the title to the Lands with the interests in land created hereby;
 - (b) upon execution and delivery of this Agreement and registration thereof, the interests in land created hereby will encumber all legal and beneficial interests in the title to the Lands;
 - (c) this Agreement will be fully and completely binding upon the Owner in accordance with its terms and the Owner will perform all of its obligations under this Agreement in accordance with its terms; and
 - (d) the foregoing representations, warranties, covenants and agreement will have force and effect notwithstanding any knowledge on the part of the City whether actual or constructive concerning the status of the Owner with regard to the Lands or any other matter whatsoever.
- 10.11 Liability. Notwithstanding anything to the contrary contained herein, the Owner shall not be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Owner ceases to have any further interest in the Lands.
- 10.12 Enurement. This Agreement will enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement will enure to the benefit of and be binding upon the Owner and its successors and assigns.

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

SCHEDULE A

SKETCH PLAN SHOWING THE NEW BUILDING, THE C1 BUILDING AND THE F2 BUILDING



{01586031v1}

Housing Agreement and Building Use Covenant
500-650 West 57th Avenue (Building E1)

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Option to Purchase registered under number CA5042592;
- (b) "Existing Chargeholder" means VANCOUVER COASTAL HEALTH AUTHORITY;
- (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.

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) **"Existing Charges"** means the Mortgage registered under number CA7121629, as modified by Modification CA7705081 and the Assignment of Rents registered under number CA7121630, as modified by Modification CA7705082;
- (b) **"Existing Chargeholder"** means HSBC BANK CANADA;
- (c) **"New Charges"** means the Housing Agreement and Section 219 Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

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

- (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

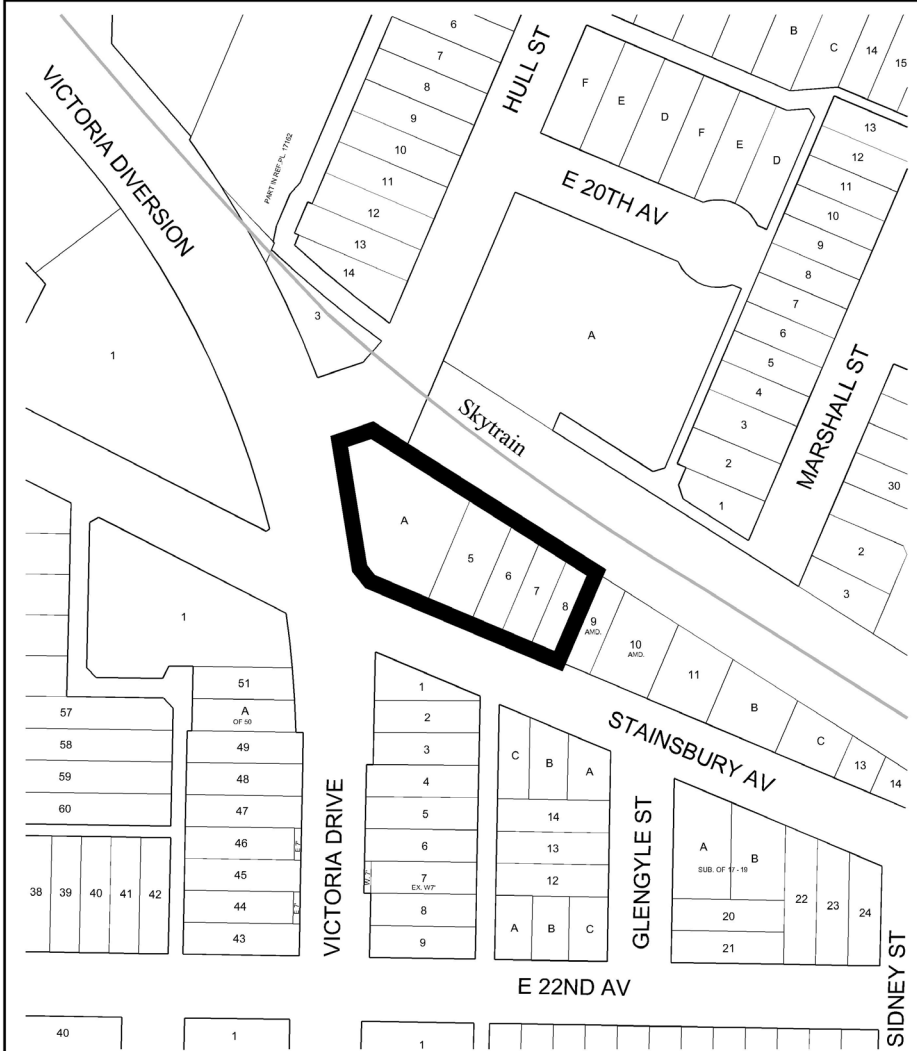
EXPLANATION


Subdivision By-law No. 5208 amending By-law Re: 2009-2037 Stainsbury Avenue

Enactment of the attached By-law will delete 7969-7989 Cambie Street from the maps forming part of Schedule A of the Subdivision By-law, and implement Council's resolution of July 28, 2022 dealing with the rezoning of the property, and is consequential to the rezoning of the property.

Director of Legal Services
April 25, 2023

By-law No. _____ being a By-law to amend By-law No. 5208
being the Subdivision By-law



The properties outlined in black () are deleted from the RS-1/RS-3/RS-3A/RS-5/RS-6 maps forming part of Schedule A of the Subdivision By-law

2009-2037 Stainsbury Avenue

map: 1 of 1

scale: NTS



City of Vancouver

date: 2023-04-12

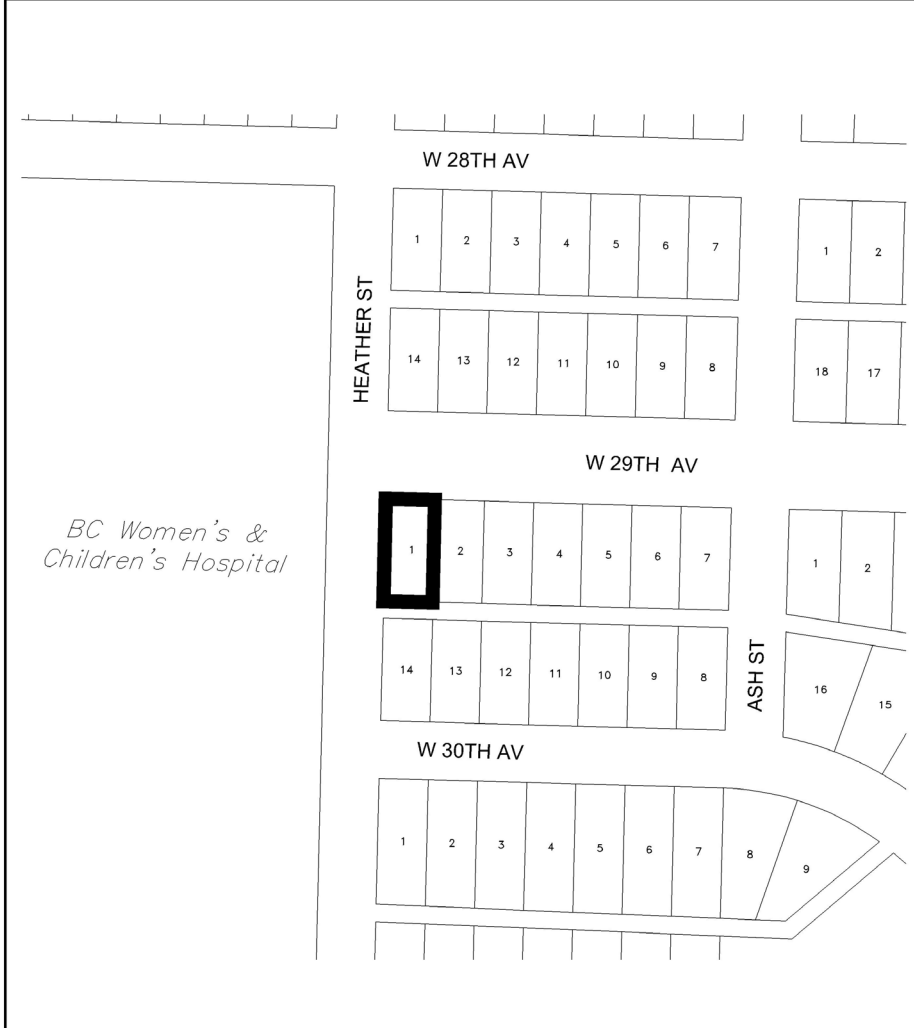
EXPLANATION


Subdivision By-law No. 5208 amending By-law Re: 692 West 29th Avenue

Enactment of the attached By-law will delete 692 West 29th Avenue from the maps forming part of Schedule A of the Subdivision By-law, and implement Council's resolution of September 12, 2019 dealing with the rezoning of the property, and is consequential to the rezoning of the property.

Director of Legal Services
April 25, 2023

By-law No. _____ being a By-law to amend By-law No. 5208
being the Subdivision By-law



The property outlined in black () is deleted from the RS-1/RS-3/RS-3A/RS-5/RS-6 maps forming part of Schedule A of the Subdivision By-law

692 West 29th Avenue

map: 1 of 1

scale: NTS



City of Vancouver

date: 2023-04-12

EXPLANATION

A By-law to enter into an agreement among the Participating Municipalities regarding an Inter-municipal Transportation Network Services Business Licence Scheme

Enactment of the attached by-law will implement Council's resolution of April 12, 2023 to enable the participation of the District of Hope, the District of Kent and the City of Mission in the Inter-Municipal TNS Business Licence (IMBL).

Director of Legal Services
April 25, 2023

BY-LAW NO. _____

A By-law to enter into an agreement among the Participating Municipalities regarding an Inter-municipal Transportation Network Services Business Licence Scheme

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

1. Council hereby authorizes the City to enter into an Agreement with the Participating Municipalities in substantially the form and substance of the 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 Participating Municipalities 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.
3. This By-law is to be cited as the "Inter-municipal TNS Business Licence Agreement By-law".

ENACTED by Council this _____ day of _____, 2023

Mayor

Acting City Clerk

SCHEDULE A

Inter-municipal TNS Business Licence Agreement

WHEREAS the City of Abbotsford, the Village of Anmore, the Bowen Island Municipality, the City of Burnaby, the City of Chilliwack, the City of Coquitlam, the City of Delta, the Village of Harrison Hot Springs, the District of Hope, the District of Kent, the Corporation of the City of Langley, the Corporation of the Township of Langley, the Village of Lions Bay, the City of Maple Ridge, the City of Mission, the Corporation of the City of New Westminster, the Corporation of the City of North Vancouver, the Corporation of the District of North Vancouver, the City of Pitt Meadows, the Corporation of the City of Port Coquitlam, the City of Port Moody, the City of Richmond, the District of Squamish, the City of Surrey, the City of Vancouver, the Corporation of the District of West Vancouver, the Resort Municipality of Whistler, and the Corporation of the City of White Rock (the "*Participating Municipalities*"), wish to permit transportation network services ("*TNS*") businesses to operate across their jurisdictional boundaries thereby eliminating the need to obtain a separate municipal business licence in each jurisdiction;

NOW THEREFORE the *Participating Municipalities* agree as follows:

1. The *Participating Municipalities* agree to establish an *Inter-municipal TNS Business Licence* scheme among the *Participating Municipalities*, pursuant to section 14 of the *Community Charter* and section 192.1 of the *Vancouver Charter*.

2. The *Participating Municipalities* will request their respective municipal Councils to each ratify this Agreement and enact a by-law to implement an *Inter-municipal TNS Business Licence* scheme effective June 1, 2023.

3. In this Agreement:

"*Accessible Vehicle*" means a motor vehicle designed and manufactured, or converted, for the purpose of transporting persons who use mobility aids;

"*Administrative Costs*" means the direct and indirect costs and investments attributable to administering the *Inter-municipal TNS Business Licence* scheme, including wages, materials, corporate overhead and rent;

"*Business*" has the same meaning as in the *Community Charter*;

"*Community Charter*" means the Community Charter, S.B.C. 2003, c. 26, as may be amended or replaced from time to time;

"*Inter-municipal TNS Business*" means a *TNS Business* that has been licensed to operate in the Region 1 operating area by the Passenger Transportation Board;

"*Inter-municipal TNS Business Licence*" means a business licence that authorizes an *Inter-municipal TNS Business* to be carried on within the jurisdictional boundaries of any or all of the *Participating Municipalities*;

"*Inter-municipal TNS Business Licence By-law*" means the by-law adopted by the Council of each *Participating Municipality* to implement the *Inter-municipal TNS Business Licence* scheme contemplated by this Agreement;

“*Mobility Aid*” has the same meaning as in the *Passenger Transportation Act*, S.B.C 2004, c. 39, as may be amended or replaced from time to time;

“*Municipal Business Licence*” means a licence or permit, other than an *Inter-municipal TNS Business Licence*, issued by a *Participating Municipality* that authorizes a *Business* to be carried on within the jurisdictional boundaries of that *Participating Municipality*;

“*Participating Municipality*” means any one of the *Participating Municipalities*;

“*Premises*” means one or more fixed or permanent locations where the *TNS Business* ordinarily carries on *Business*;

“*TNS Business*” means a person carrying on the business of providing *Transportation Network Services*;

“*Transportation Network Services*” has the same meaning as in the *Passenger Transportation Act*, S.B.C 2004, c. 39, as may be amended or replaced from time to time;

“*Vancouver Charter*” means the *Vancouver Charter*, S.B.C. 1953, c. 55, as may be amended or replaced from time to time; and

“*Zero Emission Vehicle*” means a motor vehicle that is exclusively propelled by electricity or hydrogen from an external source.

4. Subject to the provisions of the *Inter-municipal TNS Business Licence By-law*, each *Participating Municipality* will permit a *TNS Business* that has obtained an *Inter-municipal TNS Business Licence* to carry on the *Business* of providing *Transportation Network Services* within that *Participating Municipality* for the term authorized by the *Inter-municipal TNS Business Licence* without obtaining a *Municipal Business Licence* for the *TNS Business* in that *Participating Municipality*.

5. All *Inter-municipal TNS Business Licences* will be issued by the City of Vancouver.

6. The City of Vancouver may issue an *Inter-municipal TNS Business Licence* to a *TNS Business* if the *TNS Business* is an *Inter-municipal TNS Business* and meets the requirements of the *Inter-municipal TNS Business Licence By-law*, in addition to the requirements of the City of Vancouver’s License By-law No. 4450.

7. Notwithstanding that a *TNS Business* may hold an *Inter-municipal TNS Business Licence* that would make it unnecessary to obtain a *Municipal Business Licence* for the *TNS Business* in the *Participating Municipalities*, the *TNS Business* must still comply with all orders and regulations under any municipal business licence by-law in addition to those under any other by-laws, regulations, or provincial or federal laws that may apply within any jurisdiction in which the *TNS Business* carries on *Business*.

8. Any *Participating Municipality* may require that the holder of an *Inter-municipal TNS Business Licence* also obtain a *Municipal Business Licence* for any *Premises* that are maintained by the licence holder within the jurisdiction of the *Participating Municipality*.

9. The annual *Inter-municipal TNS Business Licence* fee is \$155, plus \$150 for each vehicle operating under the authority of the *Inter-municipal TNS Business*, except that the per vehicle fee for

Zero Emission Vehicles will be \$30, and there will be no per vehicle fee charged for *Accessible Vehicles*.

10. The fee for any additional vehicles that begin operating under the authority of an *Inter-municipal TNS Business Licence* holder after the annual licence fee is paid will be the per vehicle fee set out in section 9, pro-rated by dividing the applicable annual per vehicle fee by 12 and multiplying the resulting number by the number of months remaining in that calendar year, including any partial months which will be counted as whole months.

11. The City of Vancouver will distribute the revenue generated from *Inter-municipal TNS Business Licence* fees amongst all *Participating Municipalities* based on the City of Vancouver retaining an amount to cover its *Administrative Costs*, with the remaining fees to be distributed proportionally to the *Participating Municipalities*, including the City of Vancouver, based on the number of pick-ups and drop-offs in that *Participating Municipality*. The City of Vancouver will provide the other *Participating Municipalities* with an itemized accounting of the fees collected and disbursed, including an accounting of its *Administrative Costs*, at the time it distributes the remaining fees to those *Participating Municipalities*.

12. The revenue generated from *Inter-municipal TNS Business Licence* fees collected from January 1 to December 31 inclusive that is to be distributed to the *Participating Municipalities* in accordance with section 11, including the fees collected for any additional vehicles under section 10, will be distributed by the City of Vancouver by February 28 of the year following the year in which fees were collected.

13. The length of term of an *Inter-municipal TNS Business Licence* is 12 months, except that the length of term of the initial *Inter-municipal TNS Business Licence* issued to an *Inter-municipal TNS Business* by the City of Vancouver may be less than 12 months in order to harmonize the expiry date of the *Inter-municipal TNS Business Licence* with the calendar year, in which case the annual fee will be pro-rated by dividing the applicable annual licence fee by 12 and multiplying the resulting number by the number of months remaining in that calendar year, including any partial months which will be counted as whole months.

14. An *Inter-municipal TNS Business Licence* will be valid within the jurisdictional boundaries of all of the *Participating Municipalities* until its term expires, unless the *Inter-municipal TNS Business Licence* is suspended or cancelled. If a *Participating Municipality* withdraws from the *Inter-municipal TNS Business Licence* scheme among the *Participating Municipalities* in accordance with the *Inter-municipal TNS Business Licence By-law*, then the *Inter-municipal TNS Business Licence* will cease to be valid within the jurisdictional boundary of that former *Participating Municipality*.

15. A *Participating Municipality* may exercise the authority of the City of Vancouver as the issuing municipality and suspend an *Inter-municipal TNS Business Licence* in relation to conduct by the holder within the *Participating Municipality* which would give rise to the power to suspend a business licence under the *Community Charter* or *Vancouver Charter* or under the business licence by-law of the *Participating Municipality*. The suspension will be in effect throughout all of the *Participating Municipalities* and it will be unlawful for the holder to carry on the *Business* authorized by the *Inter-municipal TNS Business Licence* in any *Participating Municipality* for the period of the suspension.

16. A *Participating Municipality* may exercise the authority of the City of Vancouver as the issuing municipality and cancel an *Inter-municipal TNS Business Licence* in relation to conduct by the holder within the *Participating Municipality* which would give rise to the power to cancel a business licence under the *Community Charter* or *Vancouver Charter* or the business licence by-law

of the *Participating Municipality*. The cancellation will be in effect throughout all of the *Participating Municipalities*.

17. The suspension or cancellation of an *Inter-municipal TNS Business Licence* under section 15 or 16 will not affect the authority of a *Participating Municipality* to issue a *Municipal Business Licence*, other than an *Inter-municipal TNS Business Licence*, to the holder of the suspended or cancelled *Inter-municipal TNS Business Licence*.

18. Nothing in this Agreement affects the authority of a *Participating Municipality* to suspend or cancel any *Municipal Business Licence* issued by that municipality or to enact regulations in respect of any category of *Business* under section 15 of the *Community Charter* or sections 272, 273, 279A, 279A.1, 279B, and 279C of the *Vancouver Charter*.

19. A *Participating Municipality* may, by notice in writing to each of the other *Participating Municipalities*, withdraw from the *Inter-municipal TNS Business Licence* scheme among the *Participating Municipalities*, and the notice must:

- (a) set out the date on which the withdrawing municipality will no longer recognize the validity within its boundaries of *Inter-municipal TNS Business Licences*, which date must be at least 6 months from the date of the notice; and
- (b) include a certified copy of the municipal Council resolution or by-law authorizing the municipality's withdrawal from the *Inter-municipal TNS Business Licence* scheme.

20. Nothing contained or implied in this Agreement shall fetter in any way the discretion of the Councils of the *Participating Municipalities*. Further, nothing contained or implied in this Agreement shall prejudice or affect the *Participating Municipalities'* rights, powers, duties or obligations in the exercise of their functions pursuant to the *Community Charter*, *Vancouver Charter*, or the *Local Government Act*, as amended or replaced from time to time, or act to fetter or otherwise affect the *Participating Municipalities'* discretion, and the rights, powers, duties and obligations under all public and private statutes, by-laws, orders and regulations, which may be, if each *Participating Municipality* so elects, as fully and effectively exercised as if this Agreement had not been executed and delivered by the *Participating Municipalities*.

21. Despite any other provision of this Agreement, an *Inter-municipal TNS Business Licence* granted in accordance with the *Inter-municipal TNS Business Licence Bylaw* does not grant the holder a licence to operate in any jurisdiction other than within the jurisdictional boundaries of the *Participating Municipalities*. Furthermore, a business licence granted under any other inter-municipal *TNS Business* licence scheme is deemed not to exist for the purposes of this Agreement even if a *Participating Municipality* is a participating member of the other inter-municipal *TNS Business* licence scheme.

22. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and may be delivered by email or facsimile transmission, and each such counterpart, howsoever delivered, shall be deemed to be an original. Such counterparts together shall constitute one and the same instrument, notwithstanding that all of the *Participating Municipalities* are not signatories to the original or the same counterpart.

23. This Agreement replaces and supercedes the Inter-municipal TNS Business Licence Agreement entered into by the City of Abbotsford, the Village of Anmore, the Bowen Island Municipality, the City of Burnaby, the City of Chilliwack, the City of Coquitlam, the City of Delta, the Village of Harrison Hot Springs, the Corporation of the City of Langley, the Corporation of the

Township of Langley, the Village of Lions Bay, the City of Maple Ridge, the Corporation of the City of New Westminster, the Corporation of the City of North Vancouver, the Corporation of the District of North Vancouver, the City of Pitt Meadows, the Corporation of the City of Port Coquitlam, the City of Port Moody, the City of Richmond, the District of Squamish, the City of Surrey, the City of Vancouver, the Corporation of the District of West Vancouver, the Resort Municipality of Whistler, and the Corporation of the City of White Rock in 2020.

24. In the event that the municipal Council of a *Participating Municipality* other than the City of Vancouver does not ratify this Agreement, then that municipality will not be considered a *Participating Municipality* for the purposes of this Agreement, and the terms and conditions of this Agreement shall be effective as among the other *Participating Municipalities*.

Signed and delivered on behalf of the *Participating Municipalities*, the Councils of each of which have, by By-law, ratified this Agreement and authorized their signatories to sign on behalf of the respective Councils, on the dates indicated below.

The City of Abbotsford

Mayor _____

Corporate Officer _____

Date _____

Village of Anmore

Mayor _____

Corporate Officer _____

Date _____

Bowen Island Municipality

Mayor _____

Corporate Officer _____

Date _____

City of Burnaby

City Clerk _____

Date _____

City of Chilliwack

Mayor

Corporate Officer

Date

City of Coquitlam

Mayor

City Clerk

Date

City of Delta

Mayor

City Clerk

Date

Village of Harrison Hot Springs

Mayor

Corporate Officer

Date

The District of Hope

Mayor

Corporate Officer

Date

The District of Kent

Mayor _____

Corporate Officer _____

Date _____

The Corporation of the City of Langley

Mayor _____

Corporate Officer _____

Date _____

The Corporation of the Township of Langley

Mayor _____

Township Clerk _____

Date _____

Village of Lions Bay

Mayor _____

Corporate Officer _____

Date _____

City of Maple Ridge

Presiding Member _____

Corporate Officer _____

Date _____

The City of Mission

Mayor _____

Corporate Officer _____

Date _____

The Corporation of the City of New Westminster

Mayor _____

City Clerk _____

Date _____

The Corporation of the City of North Vancouver

Mayor _____

City Clerk _____

Date _____

The Corporation of the District of North Vancouver

Mayor _____

Municipal Clerk _____

Date _____

The City of Pitt Meadows

Mayor _____

Corporate Officer _____

Date _____

The Corporation of the City of Port Coquitlam

Mayor _____

Corporate Officer _____

Date _____

City of Port Moody

Mayor _____

Corporate Officer _____

Date _____

The City of Richmond

Chief Administrative Officer _____

General Manager _____

Corporate and Financial Services _____

Date _____

District of Squamish

Mayor _____

Corporate Officer _____

Date _____

City of Surrey

Mayor _____

City Clerk _____

Date _____

The City of Vancouver

Director of Legal Services _____

Date _____

The Corporation of the District of West Vancouver

Mayor _____

Corporate Officer _____

Date _____

Resort Municipality of Whistler

Mayor _____

Municipal Clerk _____

Date _____

The Corporation of the City of White Rock

Mayor _____

Director of Corporate Administration _____

Date _____

EXPLANATION

A By-law to enter into an Inter-municipal TNS Business Licence Scheme

Enactment of the attached by-law will implement Council's resolution of April 12, 2023 to enable the participation of the District of Hope, the District of Kent and the City of Mission in the Inter-Municipal TNS Business Licence (IMBL).

Director of Legal Services
April 25, 2023

BY-LAW NO.

A By-law to enter into an Inter-municipal TNS Business Licence Scheme

WHEREAS the municipalities that have entered or will enter into the *Inter-municipal TNS Business Licence Agreement* (the "*Participating Municipalities*") wish to permit licensed transportation network services ("*TNS*") businesses to operate across their jurisdictional boundaries thereby eliminating the need to obtain a separate municipal business licence in each jurisdiction;

AND WHEREAS each of the *Participating Municipalities* has or will adopt a similar by-law to implement the *Inter-municipal TNS Business Licence* scheme;

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

1. There is hereby established an *Inter-municipal TNS Business Licence* scheme among the *Participating Municipalities*, pursuant to section 14 of the *Community Charter* and section 192.1 of the *Vancouver Charter*.

2. In this By-law:

"*Accessible Vehicle*" means a motor vehicle designed and manufactured, or converted, for the purpose of transporting persons who use mobility aids;

"*Business*" has the same meaning as in the *Community Charter*;

"*Community Charter*" means the *Community Charter*, S.B.C. 2003, c. 26, as may be amended or replaced from time to time;

"*Inter-municipal TNS Business*" means a *TNS Business* that has been licensed to operate in the Region 1 operating area by the Passenger Transportation Board;

"*Inter-municipal TNS Business Licence*" means a business licence which authorizes an *Inter-municipal TNS Business* to be carried on within the jurisdictional boundaries of any or all of the *Participating Municipalities*;

"*Mobility Aid*" has the same meaning as in the *Passenger Transportation Act*, S.B.C. 2004, c. 39. as may be amended or replaced from time to time;

"*Municipal Business Licence*" means a licence or permit, other than an *Inter-municipal TNS Business Licence*, issued by a *Participating Municipality* that authorizes a *Business* to be carried on within the jurisdictional boundaries of that *Participating Municipality*;

"*Participating Municipality*" means any one of the *Participating Municipalities*;

"*Premises*" means one or more fixed or permanent locations where the *TNS Business* ordinarily carries on *Business*;

“*TNS Business*” means a person carrying on the business of providing *Transportation Network Services*;

“*Transportation Network Services*” has the same meaning as in the *Passenger Transportation Act*, S.B.C 2004, c. 39, as may be amended or replaced from time to time;

“*Vancouver Charter*” means the *Vancouver Charter*, S.B.C. 1953, c. 55, as may be amended or replaced from time to time; and

“*Zero Emission Vehicle*” means a motor vehicle that is exclusively propelled by electricity or hydrogen from an external source.

3. Subject to the provisions of this By-law, each *Participating Municipality* will permit a *TNS Business* that has obtained an *Inter-municipal TNS Business Licence* to carry on the *Business* of providing *Transportation Network Services* within that *Participating Municipality* for the term authorized by the *Inter-municipal TNS Business Licence* without obtaining a *Municipal Business Licence* for the *TNS Business* in that *Participating Municipality*.

4. All *Inter-municipal TNS Business Licences* will be issued by the City of Vancouver.

5. The City of Vancouver may issue an *Inter-municipal TNS Business Licence* to a *TNS Business* if the *TNS Business* is an *Inter-municipal TNS Business* and meets the requirements of this By-law, in addition to the requirements of the City of Vancouver’s License By-law No. 4450.

6. Notwithstanding that a *TNS Business* may hold an *Inter-municipal TNS Business Licence* that would make it unnecessary to obtain a *Municipal Business Licence* for the *TNS Business* in the *Participating Municipalities*, the *TNS Business* must still comply with all orders and regulations under any municipal business licence by-law in addition to those under any other by-laws, regulations, or provincial or federal laws that may apply within any jurisdiction in which the *TNS Business* carries on *Business*.

7. Any *Participating Municipality* may require that the holder of an *Inter-municipal TNS Business Licence* also obtain a *Municipal Business Licence* for any *Premises* that are maintained by the licence holder within the jurisdiction of the *Participating Municipality*.

8. The annual *Inter-municipal TNS Business Licence* fee is \$155, plus \$150 for each vehicle operating under the authority of the *Inter-municipal TNS Business*, except that the per vehicle fee for *Zero Emission Vehicles* will be \$30, and there will be no per vehicle fee charged for *Accessible Vehicles*.

9. The fee for any additional vehicles that begin operating under the authority of an *Inter-municipal TNS Business Licence* holder after the annual licence fee is paid will be the per vehicle fee set out in section 8, pro-rated by dividing the applicable annual per vehicle fee by 12 and multiplying the resulting number by the number of months remaining in that calendar year, including any partial months which will be counted as whole months.

10. The length of term of an *Inter-municipal TNS Business Licence* is 12 months, except that the length of term of the initial *Inter-municipal TNS Business Licence* issued to an *Inter-municipal TNS Business* by the City of Vancouver may be less than 12 months in order to harmonize the expiry date of the *Inter-municipal TNS Business Licence* with the calendar year, in which case the annual fee will be pro-rated by dividing the applicable annual licence fee by 12 and multiplying the resulting number by the number of months remaining in that calendar year, including any partial months which will be counted as whole months.

11. An *Inter-municipal TNS Business Licence* will be valid within the jurisdictional boundaries of all of the *Participating Municipalities* until its term expires, unless the *Inter-municipal TNS Business Licence* is suspended or cancelled. If a *Participating Municipality* withdraws from the *Inter-municipal TNS Business Licence* scheme among the *Participating Municipalities* in accordance with this By-law, then the *Inter-municipal TNS Business Licence* will cease to be valid within the jurisdictional boundary of that former *Participating Municipality*.

12. A *Participating Municipality* may exercise the authority of the City of Vancouver as the issuing municipality and suspend an *Inter-municipal TNS Business Licence* in relation to conduct by the holder within the *Participating Municipality* which would give rise to the power to suspend a business licence under the *Community Charter* or *Vancouver Charter* or under the business licence by-law of the *Participating Municipality*. The suspension will be in effect throughout all of the *Participating Municipalities* and it will be unlawful for the holder to carry on the *Business* authorized by the *Inter-municipal TNS Business Licence* in any *Participating Municipality* for the period of the suspension.

13. A *Participating Municipality* may exercise the authority of the City of Vancouver as the issuing municipality and cancel an *Inter-municipal TNS Business Licence* in relation to conduct by the holder within the *Participating Municipality* which would give rise to the power to cancel a business licence under the *Community Charter* or *Vancouver Charter* or the business licence by-law of the *Participating Municipality*. The cancellation will be in effect throughout all of the *Participating Municipalities*.

14. The suspension or cancellation of an *Inter-municipal TNS Business Licence* under section 12 or 13 will not affect the authority of a *Participating Municipality* to issue a *Municipal Business Licence*, other than an *Inter-municipal TNS Business Licence*, to the holder of the suspended or cancelled *Inter-municipal TNS Business Licence*.

15. Nothing in this By-law affects the authority of a *Participating Municipality* to suspend or cancel any *Municipal Business Licence* issued by that municipality or to enact regulations in respect of any category of *Business* under section 15 of the *Community Charter* or sections 272, 273, 279A, 279A.1, 279B, and 279C of the *Vancouver Charter*.

16. A *Participating Municipality* may, by notice in writing to each of the other *Participating Municipalities*, withdraw from the *Inter-municipal TNS Business Licence* scheme among the *Participating Municipalities*, and the notice must:

- (a) set out the date on which the withdrawing municipality will no longer recognize the validity within its boundaries of *Inter-municipal TNS Business Licences*, which date must be at least 6 months from the date of the notice; and

