

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

Enactment of the attached by-law will implement Council's resolution of September 25, 2024 to enable the inclusion of health care professionals and services providing in-home care as businesses eligible for the Metro West Inter-Municipal Business Licence (IMBL), to be effective January 1, 2025, and includes a correction to a section reference in the by-law.

Director of Legal Services
November 12, 2024

BY-LAW NO. _____

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

WHEREAS the City of Burnaby, the City of Delta, the City of New Westminster, the City of Richmond, the City of Surrey, and the City of Vancouver (the "Participating Municipalities") wish to permit certain categories of Businesses to operate across their jurisdictional boundaries while minimizing 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 and has or will enter into an agreement with the other Participating Municipalities to implement the inter-municipal 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 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:

"Business" has the meaning in the Community Charter;

"Community Charter" means the Community Charter, S.B.C. 2003, c.26;

"Inter-municipal Business" means any of the following businesses that provide services outside of their Principal Municipality:

- (a) a trades contractor or other professional related to the construction industry;
- (b) a contractor who performs maintenance, repair and/or inspections of land and buildings; and
- (c) a health care professional or a health care service provider who provides services by visiting clients in their homes;

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

"Municipal Business Licence" means a licence or permit, other than an Inter-municipal 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;

"Person" has the meaning in the Interpretation Act, R.S.B.C. 1996, c. 238;

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

"Principal Municipality" means the Participating Municipality where a Business is located or has a Premises; and

“Vancouver Charter” means the Vancouver Charter, S.B.C. 1953, c.55.

3. Subject to the provisions of this by-law, the Participating Municipalities will permit a Person who has obtained an Inter-municipal Business Licence to carry on Business within any Participating Municipality for the term authorized by the Inter-municipal Business Licence without obtaining a Municipal Business Licence in the other Participating Municipalities.
4. A Principal Municipality may issue an Inter-municipal Business Licence to an applicant if the applicant is an Inter-municipal Business and meets the requirements of this by-law, in addition to the requirements of the Principal Municipality's By-law that applies to a Municipal Business Licence.
5. Notwithstanding that a Person may hold an Inter-municipal Business Licence that would make it unnecessary to obtain a Municipal Business Licence in other Participating Municipalities, the Person must still comply with all other regulations of any Municipal Business Licence By-law or regulation in addition to any other by-laws that may apply within any jurisdiction in which the Person carries on Business.
6. An Inter-municipal Business Licence must be issued by the Participating Municipality in which the applicant maintains Premises.
7. The Participating Municipalities will require that the holder of an Inter-municipal Business Licence also obtain a Municipal Business Licence for Premises that are maintained by the licence holder within the jurisdiction of the Participating Municipality.
8. The Inter-municipal Business Licence fee is \$300 and is payable to the Principal Municipality.
9. The Inter-municipal Business Licence fee is separate from and in addition to any Municipal Business Licence fee that may be required by a Participating Municipality.
10. Despite the provisions of section 11, the Inter-municipal Business Licence fee will not be pro-rated.
11. The term of an Inter-municipal Business Licence is twelve (12) months, except that, at the option of a Principal Municipality, the term of the initial Inter-municipal Business Licence issued to an Inter-municipal Business in that municipality may be less than twelve (12) months in order to harmonize the expiry date of the Inter-municipal Business Licence with the expiry date of the Municipal Business Licence.
12. An Inter-municipal Business Licence will be valid within the jurisdictional boundaries of all of the Participating Municipalities until its term expires, unless the Inter-municipal Business Licence is suspended or cancelled or a Participating Municipality withdraws from the inter-municipal licensing scheme in accordance with this by-law.
13. A Participating Municipality may exercise the authority of the Principal Municipality and suspend an Inter-municipal 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 licence holder to carry on the Business authorized by the Inter-municipal Business Licence in any Participating Municipality for the period of the suspension.
14. A Participating Municipality may exercise the authority of the Principal Municipality and cancel an Inter-municipal Business Licence in relation to conduct by the licence 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 under the business licence by-law of the Participating Municipality. The cancellation will be in effect throughout all of the Participating Municipalities.

15. The cancellation of an Inter-municipal Business Licence under section 14 will not affect the authority of a Participating Municipality to issue a business licence, other than an Inter-municipal Business Licence, to the holder of the cancelled Inter-municipal Business Licence.

16. Nothing in this by-law affects the authority of a Participating Municipality to suspend or cancel any 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.

17. A Participating Municipality may, by notice in writing to each of the other Participating Municipalities, withdraw from the inter-municipal business licensing scheme 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 Business Licences, which date must be at least six months from the date of the notice; and
- (b) include a certified copy of the Council resolution or bylaw authorizing the municipality's withdrawal from the Inter-municipal Business Licence scheme.

18. The invalidity or unenforceability of any provision of this by-law shall not affect the validity or enforceability of any other provisions of this by-law and any such invalid or unenforceable provision shall be deemed to be severable.

19. Despite any other provision of this by-law, an Inter-municipal Business Licence granted in accordance with this By-law does not grant the holder a licence to operate in any jurisdiction other than within the jurisdictional boundaries of the Participating Municipalities.

20. A business licence granted under any other inter-municipal business licence scheme is deemed not to exist for the purposes of this by-law, even if a Participating Municipality is a participating member of the other inter-municipal business licence scheme.

21. The name of this by-law, for citation, is the "Inter-municipal Business Licence By-law".

22. Council repeals By-law No. 10758.

23. 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.

24. This by-law is to come into force and take effect on January 1, 2025.

ENACTED by Council this day of , 2024

Mayor

City Clerk

EXPLANATION**A By-law to enter into an agreement among the City of Burnaby, the City of Delta, the City of New Westminster, the City of Richmond, the City of Surrey, and the City of Vancouver (the "Participating Municipalities") regarding an Inter-municipal Business Licence Scheme**

Enactment of the attached by-law will implement Council's resolution of September 25, 2024 to enable the inclusion of health care professionals and services providing in-home care as businesses eligible for the Metro West Inter-Municipal Business Licence (IMBL), to be effective January 1, 2025.

Director of Legal Services
November 12, 2024

BY-LAW NO. _____

**A By-law to enter into an agreement among the City of Burnaby,
the City of Delta, the City of New Westminster, the City of
Richmond, the City of Surrey, and the City of Vancouver (the
"Participating Municipalities") regarding an Inter-municipal
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 City of Burnaby, the City of Delta, the City of New Westminster, the City of Richmond, the City of Surrey, and the City of Vancouver, 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 upon enactment.
3. This by-law is to be cited as the "Inter-municipal Business Licence Agreement By-law".

ENACTED by Council this _____ day of _____, 2024

Mayor

City Clerk

Schedule A

INTER-MUNICIPAL BUSINESS LICENCE AGREEMENT

WHEREAS the City of Burnaby, the City of Delta, the City of New Westminster, the City of Richmond, the City of Surrey, and the City of Vancouver (hereinafter the "Participating Municipalities") wish to permit certain categories of Businesses to operate across their jurisdictional boundaries while minimizing the need to obtain a separate municipal business licence in each jurisdiction;

NOW THEREFORE the City of Burnaby, the City of Delta, the City of New Westminster, the City of Richmond, the City of Surrey, and the City of Vancouver agree as follows:

1. The Participating Municipalities agree to establish an inter-municipal 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 business licence scheme effective January 1, 2025.

3. In this Agreement:

"Business" has the meaning in the Community Charter;

"Community Charter" means the Community Charter, S.B.C. 2003, c.26;

"Inter-municipal Business" means any of the following businesses that provide services outside of their Principal Municipality:

- (a) a trades contractor or other professional related to the construction industry;
- (b) a contractor who performs maintenance, repair and/or inspections of land and buildings; and
- (c) a health care professional or a health care service provider who provides services by visiting clients in their homes;

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

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

"Municipal Business Licence" means a licence or permit, other than an Inter-municipal 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";

“Person” has the meaning in the Interpretation Act, R.S.B.C. 1996, c. 238;

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

“Principal Municipality” means the Participating Municipality where a Business is located or has Premises; and

“Vancouver Charter” means the Vancouver Charter, S. B.C. 1953, c.55.

4. Subject to the provisions of the Inter-municipal Business Licence By-law, the Participating Municipalities will permit a Person who has obtained an Inter-municipal Business Licence to carry on Business within any Participating Municipality for the term authorized by the Inter-municipal Business Licence without obtaining a Municipal Business Licence in the other Participating Municipalities.

5. A Principal Municipality may issue an Inter-municipal Business Licence to an applicant if the applicant is an Inter-municipal Business and meets the requirements of the Inter-municipal Business Licence By-law, in addition to the requirements of the Principal Municipality's by-law that applies to a Municipal Business Licence.

6. Notwithstanding that a Person may hold an Inter-municipal Business Licence that would make it unnecessary to obtain a Municipal Business Licence in other Participating Municipalities, the Person must still comply with all other regulations of any municipal business licence by-law or regulation in addition to any other by-laws that may apply within any jurisdiction in which the Person carries on Business.

7. An Inter-municipal Business Licence must be issued by the Participating Municipality in which the applicant maintains Premises.

8. The Participating Municipalities will require that the holder of an Inter-municipal Business Licence also obtain a Municipal Business Licence for Premises that are maintained by the licence holder within the jurisdiction of a Participating Municipality.

9. The Inter-municipal Business Licence fee is \$300 and is payable to the Principal Municipality.

10. The Inter-municipal Business Licence fee is separate from and in addition to any Municipal Business Licence fee that may be required by a Participating Municipality.

11. Despite section 15, the Inter-municipal Business Licence fee will not be pro-rated.

12. The Participating Municipalities will distribute revenue generated from Inter-municipal Business Licence fees amongst all Participating Municipalities based on the Principal Municipality retaining 90% of the Inter-municipal Business Licence fee and the remaining 10% distributed equally to the remaining Participating Municipalities.

13. The Participating Municipalities will review the Inter-municipal business licence scheme and the revenue sharing formula established by this Agreement from time to time and may alter the formula in section 12 by written agreement of all Participating Municipalities.

14. The revenue generated from Inter-municipal Business Licence fees collected from January 1 to December 31 inclusive that is to be distributed to other Participating Municipalities, in

accordance with section 12, will be distributed by February 28 of the year following the year in which fees were collected. The Participating Municipalities will designate one municipality, which may change from time to time, to calculate and distribute the revenue generated from Inter-municipal Business Licence fees.

15. The length of term of an Inter-municipal Business Licence is twelve (12) months, except that, at the option of a Principal Municipality, the length of term of the initial Inter-municipal Business Licence issued to an Inter-municipal Business in that municipality may be less than twelve (12) months in order to harmonize the expiry date of the Inter-municipal Business Licence with the expiry date of the Municipal Business Licence.

16. An Inter-municipal Business Licence will be valid within the jurisdictional boundaries of all of the Participating Municipalities until its term expires, unless the Inter-municipal Business Licence is suspended or cancelled or a Participating Municipality withdraws from the inter-municipal business licence scheme among the Participating Municipalities in accordance with the Inter-municipal Business Licence By-law.

17. Each Participating Municipality will share a database of Inter-municipal Business Licences, which will be available for the use of all Participating Municipalities.

18. Each Participating Municipality which issues an Inter-municipal Business Licence will promptly update the shared database after the issuance of that licence.

19. A Participating Municipality may exercise the authority of the Principal Municipality and suspend an Inter-municipal 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 Business Licence in any Participating Municipality for the period of the suspension.

20. A Participating Municipality may exercise the authority of the Principal Municipality and cancel an Inter-municipal 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.

21. The cancellation of an Inter-municipal Business Licence under section 20 will not affect the authority of a Participating Municipality to issue a business licence, other than an Inter-municipal Business Licence, to the holder of the cancelled Inter-municipal Business Licence.

22. Nothing in this Agreement affects the authority of a Participating Municipality to suspend or cancel any 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.

23. A Participating Municipality may, by notice in writing to each of the other Participating Municipalities, withdraw from the inter-municipal 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 Business Licences, which date must be at least six 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 Business Licence scheme.

24. Prior to the effective date of a withdrawal under section 23 of this Agreement, the remaining Participating Municipalities will review and enter into an agreement to amend the revenue distribution formula set out in section 12 of this Agreement.

25. Nothing contained or implied in this Agreement shall fetter in any way the discretion of the Council of the Participating Municipalities. Further, nothing contained or implied in this Agreement shall prejudice or affect the Participating Municipalities' rights, powers, duties or obligation in the exercise of its 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.

26. Despite any other provision of this Agreement, an Inter-municipal Business Licence granted in accordance with the Inter-municipal Business Licence By-law 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 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 business licence scheme.

27. This Agreement may be executed in several counterparts, each of which 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.

28. This Agreement replaces and supersedes the Inter-municipal Business Licence Agreement entered into by the City of Burnaby, the City of Delta, the City of New Westminster, the City of Richmond, the City of Surrey, and the City of Vancouver in 2016.

Signed and delivered on behalf of the Participating Municipalities, the Councils of each of which has, 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 Burnaby

City Clerk _____

Date _____

The City of Delta

Mayor _____

Clerk _____

Date _____

The City of New Westminster

Mayor _____

Clerk _____

Date _____

The City of Richmond

Chief Administrative Officer _____

General Manager _____

Corporate and Financial Services _____

Date _____

The City of Surrey

Mayor

Clerk

Date

The City of Vancouver

Director of Legal Services

Date

EXPLANATION**Repeal of By-law No. 13063
Re: 2735 East Hastings Street (388 Slocan Street)**

On July 23 2020, a Public Hearing was held wherein a rezoning of 2735 East Hastings was approved in principle, subject to the owner of the lands entering into a Housing Agreement with the City. The land owner and the City entered into a Housing Agreement (the “**Original Housing Agreement**”), as approved under By-law No. 13063, and thereafter the rezoning by-law was enacted on September 21, 2021 under By-law No. 13107 (the “**Rezoning By-law**”). Subsequently, the land owner and the City entered into two new Housing Agreements (the “**New Housing Agreements**”) relating to two air space parcels subdivided from the land, as authorized under By-law No. 14100, and the New Housing Agreements were registered at the Land Title Office under registration Nos. CB1435403 to CB 1435408 and CB1435410 to CB1435415. The Original Housing Agreement was replaced by the New Housing Agreements and accordingly, By-law No. 13063, authorizing the Original Housing Agreement should be repealed, following which, the Original Housing Agreement will be discharged at the Land Title Office.

Director of Legal Services
November 12, 2024

BY-LAW NO.

**A By-law to repeal By-law No. 13063 authorizing
a Housing Agreement for 2735 East Hastings Street (388 Slocan Street)**

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

1. Council hereby repeals By-law No. 13063.
2. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2024

Mayor

City Clerk

EXPLANATION**A By-law to amend the Sewer and Watercourse By-law No. 8093
regarding notices and orders**

Enactment of the attached by-law will implement Council's resolution of October 22, 2024 to amend the Sewer and Watercourse regarding notices and orders.

Director of Legal Services
November 12, 2024

BY-LAW NO. ____

**A By-law to amend the Sewer and Watercourse By-law No. 8093
regarding notices and orders**

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. Council adds the following new sections in the correct numerical order:

“1.5 NOTICES AND ORDERS

The Inspector or City Engineer, or other employee of the City, may issue in writing such notices or orders as may be necessary to notify a person of a contravention of this By-law, in the manner set out in this By-law.

1.6 SCOPE OF ORDER

The Inspector or City Engineer, or other employee of the City, may order a person who contravenes any provision of this By-law:

- (a) to carry out any work or do anything required by this By-law or any permit within a specified time; or
- (b) to discontinue or refrain from proceeding with any work or doing anything that is in contravention of this By-law.

1.7 SERVICE OF ORDER

A notice or order issued under this By-law is sufficiently served if:

- (a) the notice or order is delivered by hand, by ordinary prepaid mail or by registered mail, to the owner or occupier at the applicable address as shown in the records of the Assessment Authority of British Columbia; or
- (b) in the case of an owner or occupier that is a corporation, the notice or order is delivered by hand, by ordinary prepaid mail, or by registered mail, to the registered and records office of the corporation; or
- (c) the notice or order is posted on the affected property or premises.

1.8 DEEMED RECEIPT OF ORDER

Notices and orders issued in accordance with this By-law are deemed to have been received:

- (a) four days after mailing, if sent by ordinary prepaid mail, to the mailing address of the owner or occupier;

(b) on the date of delivery as noted in the Canada Post tracking system, if sent by registered mail; and

(c) immediately upon receipt, if handed to the owner or occupier or to a representative of the owner or occupier, delivered to the registered and records office for the owner or occupier, or posted on the affected property or premises.”.

3. In section 8.1, Council adds “, or who fails to comply with an order or notice given under this By-law”, after “or who does any act which violates any of the provisions of this By-law”.

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

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

ENACTED by Council this day of , 2024

Mayor

City Clerk

EXPLANATION**A By-law to amend the Zoning and Development By-law No. 3575
regarding Seniors Housing Strategy related amendments**

Following the Public Hearing on October 22, 2024, Council resolved to amend the Zoning and Development By-law to update definitions and improve clarity in the seniors housing and care uses referred to in the Seniors Housing Strategy and Seniors Housing Rezoning Policy. Enactment of the attached by-law implement Council's resolution.

Director of Legal Services
November 12, 2024

BY-LAW NO. _____

**A By-law to amend the Zoning and Development By-law No. 3575
regarding Seniors Housing Strategy related 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 No. 3575.
2. Council strikes out “Community Care Facility” wherever it appears and substitutes “Community Care or Assisted Living Facility”.
3. Council strikes out “Community Care Facility – Class A” wherever it appears and substitutes “Community Care or Assisted Living Facility – Class A”.
4. Council strikes out “Community care facility – class A” wherever it appears and substitutes “Community care or assisted living facility – class A”.
5. Council strikes out “community care facility – class A” wherever it appears and substitutes “community care or assisted living facility – class A”.
6. Council strikes out “Community Care Facility – Class B” wherever it appears and substitutes “Community Care or Assisted Living Facility – Class B”.
7. Council strikes out “community care facility – class B” wherever it appears and substitutes “community care or assisted living facility – class B”.
8. Council strikes out “Community care facility – class B” wherever it appears and substitutes “Community care or assisted living facility – class B”.
9. Council strikes out “Seniors Supportive or Assisted Housing” wherever it appears, and substitutes “Seniors Supportive or Independent Living Housing”.
10. Council strikes out “seniors supportive or assisted housing” wherever it appears, and substitutes “seniors supportive or independent living housing”.
11. Council strikes out “Seniors supportive or assisted housing” wherever it appears, and substitutes “Seniors supportive or independent living housing”.
12. In section 2, Council:
 - (a) in the Definition column next to the term “Community Care or Assisted Living Facility – Class A”, strikes out “operated as a community care facility by a licensee under the Community Care and Assisted Living Act” and substitutes “operated as a licensed community care facility or registered assisted living facility in compliance with the Community Care and Assisted Living Act”;
 - (b) in the Definition column next to the term “Community Care or Assisted Living Facility – Class B”, strikes out “operated as a community care facility by a licensee under the Community Care and Assisted Living Act” and substitutes “operated as

a licensed community care facility or registered assisted living facility in compliance with the Community Care and Assisted Living Act”; and

- (c) in the Definition column next to the term “Seniors Supportive or Independent Living Housing”, adds “, but does not include a Community Care or Assisted Living Facility or Group Residence” after “and personal care”.

13. 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.

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

ENACTED by Council this day of , 2024

Mayor

City Clerk

EXPLANATION**A By-law to amend Sign By-law No. 11879
regarding Seniors Housing Strategy related amendments**

Following the Public Hearing on October 22, 2024, Council resolved to amend the Sign By-law as part of a number of consequential amendments to the Zoning and Development By-law regarding Seniors Housing Strategy related amendments.

Director of Legal Services
November 12, 2024

BY-LAW NO. _____

**A By-law to amend Sign By-law No. 11879
regarding Seniors Housing Strategy related amendments**

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

1. This by-law amends the indicated provisions of the Sign By-law No. 11879.
2. In section 5.11(g), Council:
 - (a) strikes out “community care facility” and substitutes “community care or assisted living facility”; and
 - (b) strikes out “seniors supportive or assisted housing” and substitutes “seniors supportive or independent living housing”.
3. In section 5.13(i), Council:
 - (a) strikes out “community care facility” and substitutes “community care or assisted living facility”; and
 - (b) strikes out “seniors supportive or assisted housing” and substitutes “seniors supportive or independent living housing”.
4. A decision by a court that any part of this by-law is illegal, void, or unenforceable severs that part from this by-law, and is not to affect the balance of this by-law.
5. This by-law comes into force and takes effect upon enactment.

ENACTED by Council this _____ day of _____, 2024

Mayor

City Clerk

EXPLANATION**A By-law to amend Parking By-law No. 6059
regarding Seniors Housing Strategy related amendments**

Following the Public Hearing on October 22, 2024, Council resolved to amend the Parking By-law as part of a number of consequential amendments to the Zoning and Development By-law regarding Seniors Housing Strategy related amendments.

Director of Legal Services
November 12, 2024

**A By-law to amend Parking By-law No. 6059
regarding Seniors Housing Strategy related amendments**

1. This by-law amends the indicated provisions of Parking By-law No. 6059.
2. In section 5.2.3, Council strikes out “Community Care Facility – Class B” and substitutes “Community Care or Assisted Living Facility – Class B”.
3. In section 5.2.8, Council strikes out “Seniors Supportive or Assisted Housing” and substitutes “Seniors Supportive or Independent Living Housing”.
4. In section 6.2.1.5, Council strikes out “Seniors Supportive or Assisted Housing” and substitutes “Seniors Supportive or Independent Living Housing”.
5. In section 6.2.2.1, Council strikes out “Community Care Facility – Class B” and substitutes “Community Care or Assisted Living Facility – Class B”.
6. In section 6.2.2.5, Council strikes out “Community Care Facility – Class A” and substitutes “Community Care or Assisted Living Facility – Class A”.
7. In section 7.2.2.1, Council strikes out “Community Care Facility – Class B” and substitutes “Community Care or Assisted Living Facility – Class B”.
8. In section 7.2.2.2, Council strikes out “Seniors Supportive or Assisted housing” and substitutes “Seniors Supportive or Independent Living Housing”.
9. 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.
10. This by-law is to come into force and take effect on the date of its enactment.

Mayor

City Clerk

EXPLANATION**A By-law to amend Downtown-Eastside/Oppenheimer
Official Development Plan By-law No. 5532
regarding Seniors Housing Strategy related amendments**

Following the Public Hearing on October 22, 2024, Council resolved to amend the Downtown-Eastside/Oppenheimer Official Development Plan By-law as part of a number of consequential amendments to the Zoning and Development By-law regarding Seniors Housing Strategy related amendments.

Director of Legal Services
November 12, 2024

BY-LAW NO. _____

**A By-law to amend Downtown-Eastside/Oppenheimer
Official Development Plan By-law No. 5532
regarding Seniors Housing Strategy related amendments**

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

1. This by-law amends Schedule A of the Downtown-Eastside/Oppenheimer Official Development Plan By-law.
2. In section 2.5, Council:
 - (a) strikes out “seniors supportive or assisted housing” and substitutes “seniors supportive or independent living housing”; and
 - (b) strikes out “a Community Care Facility – Class B” and substitutes “community care or assisted living facility – class B”.
3. In section 4.2.1(f), Council strikes out “Community Care Facility – Class B” and substitutes “Community Care or Assisted Living Facility – Class B”.
4. In section 4.5.1(b)(i), Council strikes out “Community Care Facility – Class B” and substitutes “Community Care or Assisted Living Facility – Class B”.
5. In section 5.2.1(c), Council strikes out “Community Care Facility – Class B” and substitutes “Community Care or Assisted Living Facility – Class B”.
6. In section 6.2.1(f), Council strikes out “Community Care Facility – Class B” and substitutes “Community Care or Assisted Living Facility – Class B”.
7. In Section 7.2.1(e), Council strikes out “Community Care Facility – Class B” and substitutes “Community Care or Assisted Living Facility – Class B”.
8. 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.
9. This by-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2024

Mayor

City Clerk

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

Following the Public Hearing on October 5, 2021, Council gave conditional approval to the rezoning of the site at 357-475 West 41st 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
November 12, 2024

357-475 West 41st 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 (878).

Definitions

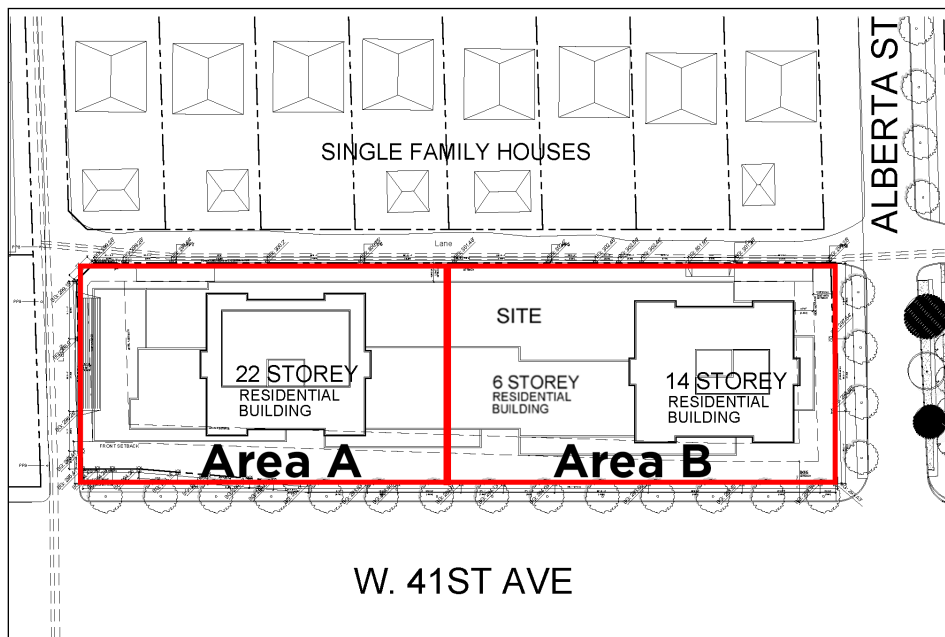
3. Words in this by-law have the meaning given to them in the Zoning and Development By-law, except that:

- (a) for the purposes of calculating the total dwelling unit area for section 6.1 of this by-law, "Dwelling Unit Area" is the floor area of each dwelling unit, measured to the inside of all perimeter walls, excluding any floor area as required by section 7.5 of this by law; and
- (b) "Moderate Income Rental Housing Units" means dwelling units that meet the requirements of approved Council policies and guidelines for moderate income rental housing as secured by a housing agreement registered on title to the property.

Sub-areas

4. The site is to consist of two sub-areas generally as illustrated in Figure 1, solely for the purposes of establishing the maximum permitted building height for each sub-area.

Figure 1: Sub-areas



Uses

5. 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 (878) 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 Dwelling Units in conjunction with any of the uses listed in this section;
- (c) Institutional Uses;
- (d) Office Uses;
- (e) Retail Uses;
- (f) Service Uses; and
- (g) Accessory Uses customarily ancillary to the uses permitted in this section.

Conditions of Use

6.1 A minimum of 18% of the total dwelling unit area must be secured as moderate income

rental housing units.

6.2 The design and layout of at least 35% of the moderate income dwelling units and at least 35% of the total number of other dwelling units must:

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

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

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

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

6.5 The Director of Planning may vary the use conditions of section 6.4 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

7.1 Computation of floor area must assume that the site area is 4,563.9 m², being the site area at the time of the application for the rezoning evidenced by this by-law, prior to any dedications.

7.2 The floor space ratio for all uses combined must not exceed 6.32.

7.3 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.

7.4 The total floor area for commercial uses must not be less than 1,608.5 m².

7.5 Computation of floor area and dwelling unit 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 all such exclusions must not exceed 12% of the floor area being provided for dwelling uses and 8% of the floor area being provided for all other 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.

7.6 Where floor area associated with residential storage area is excluded, a minimum of 18% of excluded floor area above base surface must be located within the moderate income rental housing units as storage area.

Building Height

8.1 Buildings in each sub-area must not exceed the maximum permitted height for that sub- area, measured from base surface, as set out in Table 1.

8.2 Despite section 8.1 of this by-law and section 10.18 of the Zoning and Development By-law, if the Director of Planning permits common indoor rooftop amenity space in a sub-area, the height of the portion of the building with the common indoor rooftop amenity space must not exceed the maximum permitted height for that sub-area, as set out in Table 1.

Table 1: Maximum Permitted Building Height

Sub-area	Building height	Building height including common indoor rooftop amenity spaces
A	68.9 m	72.6 m
B	45.2 m	48.9 m

Horizontal Angle of Daylight

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

9.2 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.

9.3 Measurement of the plane or planes referred to in section 9.2 must be horizontally from the centre of the bottom of each window.

9.4 The Director of Planning or Development Permit Board may relax the horizontal angle of daylight requirement if the Director of Planning or Development Permit Board first considers all the applicable policies and guidelines adopted by Council and the minimum distance of unobstructed view is not less than 3.7 m.

9.5 An obstruction referred to in section 9.2 means:

- (a) any part of the same building including permitted projections; or
- (b) the largest building permitted under the zoning on any adjoining site.

9.6 A habitable room referred to in section 9.1 does not include:

- (a) a bathroom; or
- (b) a kitchen whose floor area is the lesser of:
 - (i) 10% or less of the total floor area of the dwelling unit, or
 - (ii) 9.3 m².

Acoustics

10. A development permit application for dwelling uses must include an acoustical report prepared by a registered professional acoustical engineer demonstrating that the noise levels in those portions of the dwelling units listed below will not exceed the noise levels expressed in decibels set opposite such portions of the dwelling units. For the purposes of this section, the noise level is the A-weighted 24-hour equivalent (Leq24) sound level and will be defined simply as noise level in decibels.

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

Zoning and Development By-law

11. Sections 2 through 14 of the Zoning and Development By-law apply to this by-law.

Severability

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.

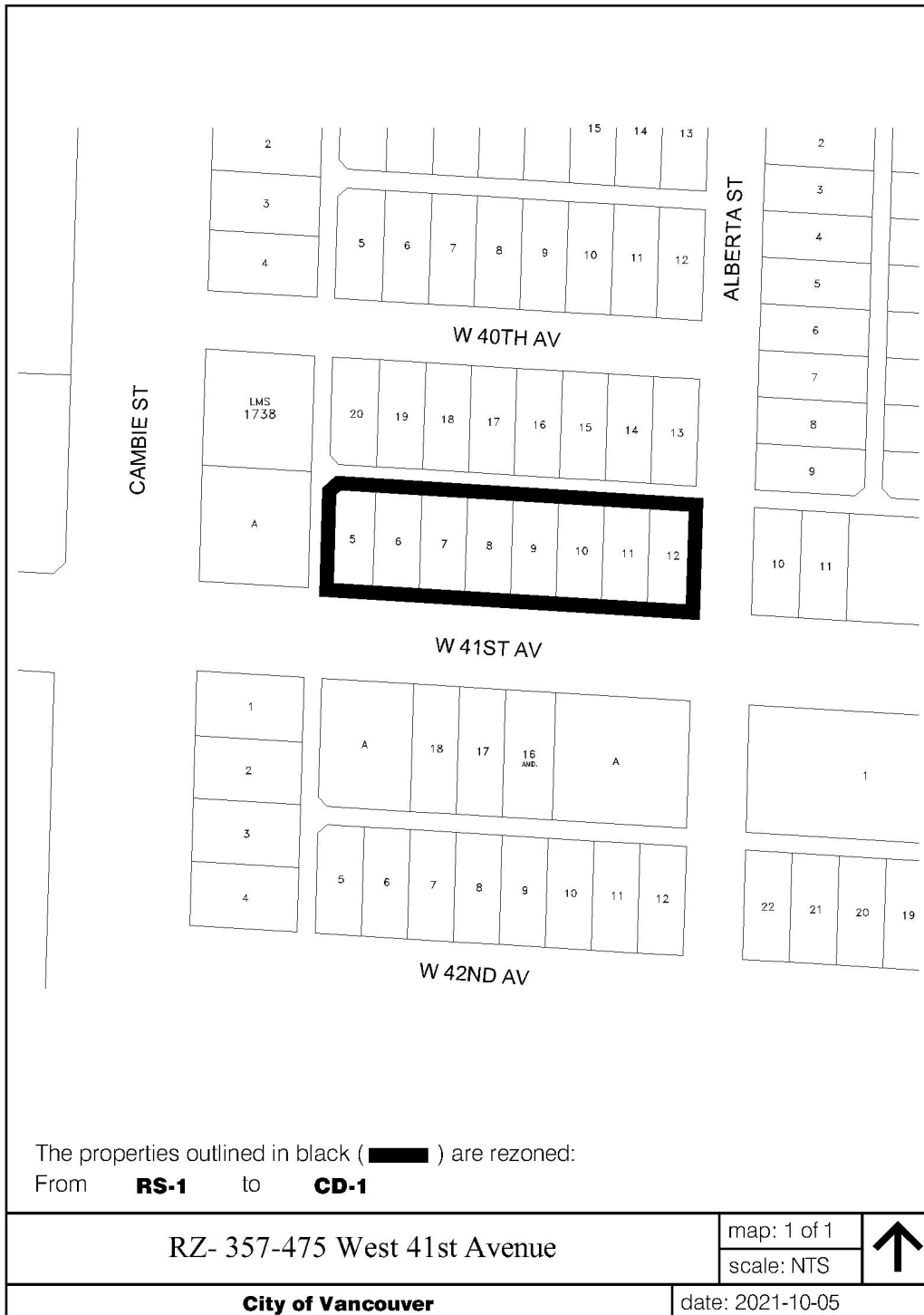
Force and Effect

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

ENACTED by Council this day of , 2024

Mayor

City Clerk



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

Following the Public Hearings on February 14 and 21, 2023, Council gave conditional approval to the rezoning of the site at 2518-2540 Grandview Highway South. 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
November 12, 2024

2518-2540 Grandview Highway South

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 (879).

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 this CD-1 and the only uses for which the Director of Planning or Development Permit Board will issue development permits are:

- (a) Dwelling Uses, limited to Multiple Dwelling; and
- (b) Accessory Uses customarily ancillary to the uses permitted in this section.

Conditions of Use

4. All residential floor area must be used for social housing.

Floor Area and Density

5.1 Computation of floor area must assume that the site area is 1,418 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 maximum floor space ratio for all uses combined is 2.30.

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, provided that:

- (i) the total area of all such exclusions must not exceed 12% of the permitted floor area, 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 considers the impact on privacy and outlook;
- (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) entries, porches and verandahs if the Director of Planning first approves the design;
- (e) all residential storage area above or below base surface, except that if residential storage area above base surface exceeds 3.7 m² per dwelling unit, there will be no exclusion for any of the residential storage area above base surface for that unit; and
- (f) all storage area for non-dwelling uses below base surface.

5.5 The Director of Planning or Development Permit Board may exclude common amenity areas from the computation of floor area, to a maximum of 10% of the total permitted floor area, if the Director of Planning or Development Permit Board considers the intent of this by-law and all applicable Council policies and guidelines.

Building Height

6.1 Building height must not exceed 22.0 m.

6.2 Despite section 6.1 of this by-law and section 10.1 of the Zoning and Development By-law, the Director of Planning may permit a greater height than otherwise permitted for rooftop appurtenances such as stairs, elevators, elevator machine rooms, mechanical screens, a vestibule accessing a green roof, or similar features, 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 1 window on an exterior wall of a building.

7.2 For the purposes of section 7.1 above, habitable room means any room except a bathroom or a kitchen.

7.3 Each exterior window must be located so that a plane or planes extending from the window and formed by an angle of 50 degrees, or 2 angles with a sum of 70 degrees, to encounter no obstruction over a distance of 24.0 m.

7.4 The plane or planes referred to in section 7.3 above must be measured horizontally from the centre of the bottom of each window.

7.5 An obstruction referred to in section 7.3 above means:

- (a) any part of the same building excluding permitted projections; or
- (b) the largest building permitted on any adjoining site.

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

- (a) the Director of Planning or Development Permit Board considers all applicable Council policies and guidelines; and
- (b) the minimum distance of unobstructed view is at least 3.7 m.

Severability

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

Force and Effect

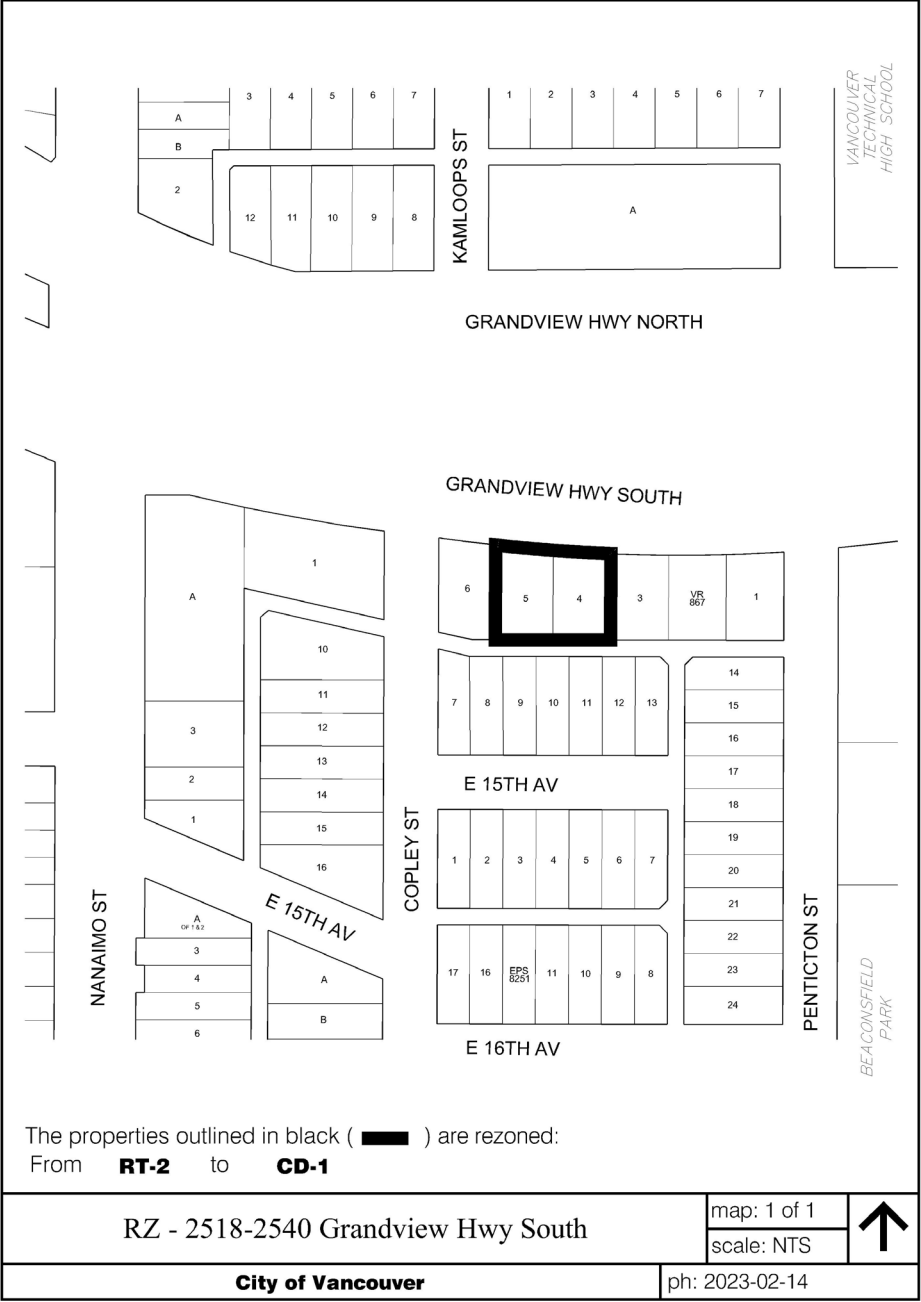
9. This by-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2024

Mayor

City Clerk

Schedule A



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 January 25, 2022, Council gave conditional approval to the rezoning of the site at 2037-2061 East Broadway. 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
November 12, 2024

2037-2061 East Broadway

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 (880).

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 (880) and the only uses for which the Director of Planning or Development Permit Board will issue development permits are:

- (a) Dwelling Uses, limited to Multiple Dwelling; and
- (b) Accessory Uses customarily ancillary to the uses permitted in this section.

Conditions of Use

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

- (a) be suitable for family housing; and
- (b) include two or more bedrooms, of which:
 - (i) at least 25% of the total dwelling units must be two-bedroom units, and
 - (ii) at least 10% of the total dwelling units must be three-bedroom units.

Floor Area and Density

5.1 Computation of floor area must assume that the site area is 1,498.3 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 2.65.

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; and
- (d) all residential storage area above or below base surface, except that if residential storage area above base surface exceeds 3.7 m² for a dwelling unit, there will be no exclusion for any of the residential storage area above base surface for that unit.

5.5 Computation of floor area may exclude, at the discretion of the Director of Planning or Development Permit Board, amenity areas accessory to a residential use, to a maximum of 10% of the total floor area being provided for dwelling uses.

Building Height

6.1 Building height, measured from base surface, must not exceed 20.8 m.

6.2 Despite section 6.1 of this by-law and section 10.18 of the Zoning and Development By-law, if the Director of Planning permits a common indoor rooftop amenity space, the height of the portion of the building with the common indoor rooftop amenity space must not exceed 25.3 m.

Horizontal Angle of Daylight

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

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

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

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

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

7.5 An obstruction referred to in section 7.2 means:

- (a) any part of the same building including permitted projections; or
- (b) the largest building permitted under the zoning on any adjoining site.

7.6 A habitable room referred to in section 7.1 does not include:

- (a) a bathroom; or
- (b) a kitchen whose floor area is the lesser of:
 - (i) 10% or less of the total floor area of the dwelling unit, or
 - (ii) 9.3 m².

Acoustics

8. A development permit application for dwelling uses must include an acoustical report prepared by a registered professional acoustical engineer demonstrating that the noise levels in those portions of the dwelling units listed below will not exceed the noise levels expressed in decibels set opposite such portions of the dwelling units. For the purposes of this section, the noise level is the A-weighted 24-hour equivalent (Leq24) sound level and will be defined simply as noise level in decibels.

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

Severability

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

Force and effect

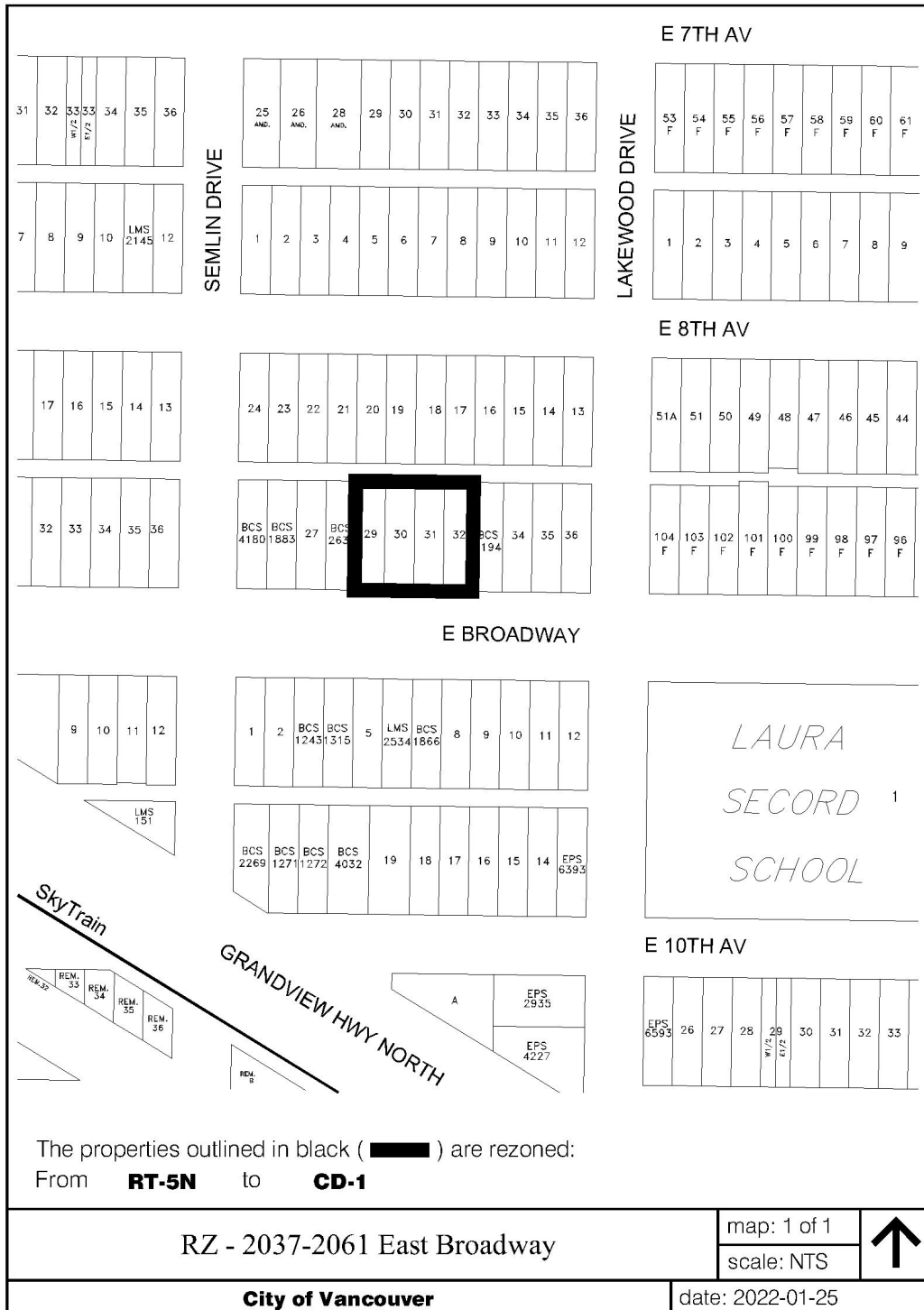
10. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2024

Mayor

City Clerk

Schedule A



EXPLANATION**A By-law to amend
Zoning and Development By-law No. 3575
to rezone an area from R1-1 to RR-2B**

Following the Public Hearing on March 7, 2023, Council gave conditional approval to the rezoning of the site at 1522 West 45th Avenue and 6137 Granville Street. The rezoning report included references to the existing RS zoning. On October 17, 2023, Council approved amendments to the Zoning and Development By-law that consolidated nine RS residential zones by rezoning areas zoned RS-1, RS-1A, RS-1B, RS-2, RS-3, RS-3A, RS-5, RS-6 and RS-7 to a new R1-1 Residential Inclusive zone. As a result of that consolidation, the references to RS-1 in the original draft of this by-law have been updated to R1-1. 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
November 12, 2024

1522 West 45th Avenue and 6137 Granville Street

BY-LAW NO.

**A By-law to amend
Zoning and Development By-law No. 3575
to rezone an area from R1-1 to RR-2B**

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

Zoning District Plan Amendment

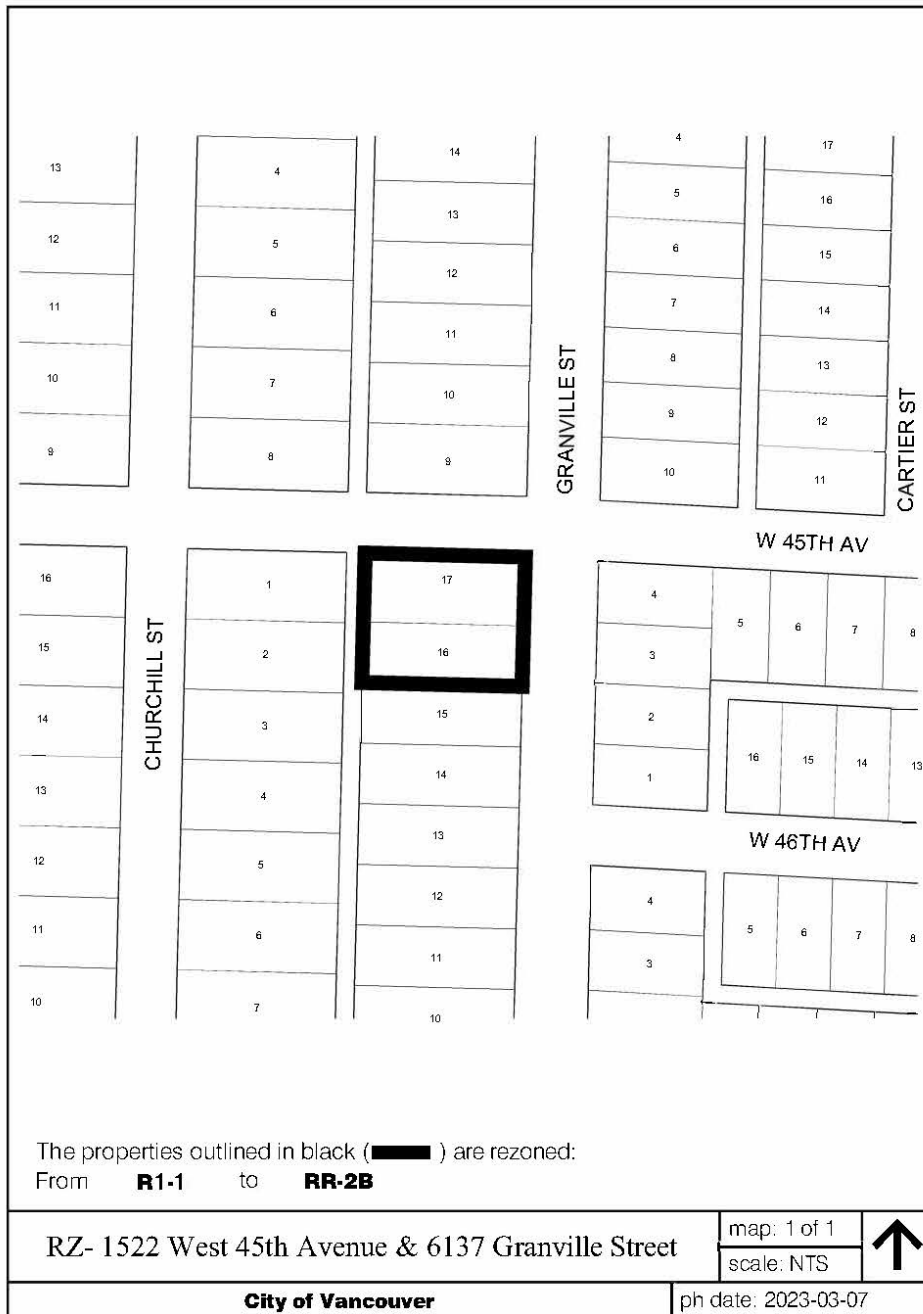
1. This by-law amends the indicated provisions or schedules of the Zoning Development By-law No. 3575.
2. This by-law amends the Zoning District Plan attached as Schedule D to By-law No. 3575, and amends or substitutes the boundaries and districts shown on it, according to the amendments, substitutions, explanatory legends, notations, and references shown on the plan attached as Schedule A to this by-law, and incorporates Schedule A into Schedule D of By-law No. 3575.
2. The area shown within the heavy black outline on Schedule A is rezoned and moved from the R1-1 district to the RR-2B district.
3. This by-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2024

Mayor

City Clerk

Schedule A



EXPLANATION**Authorization to enter into a Housing Agreement
Re: 906-982 West 18th Avenue and 907-969 West 19th Avenue**

After a public hearings on July 5, 21 and 26, 2022, Council approved in principle the land owner's application to rezone the above noted property from RT-2 (Residential) District to CD-1 (Comprehensive Development) District, subject to, among other things, a Housing Agreement securing Rental Housing including at least 22% (1,436 sq. m (15,459 sq.ft.)) of the residential floor area that is counted in the calculation of the dwelling unit area be secured as moderate income units, being entered into by the City and the land owner, on terms satisfactory to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant, and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services
November 12, 2024

BY-LAW NO.

**A By-law to enact a Housing Agreement
for 906-982 West 18th Avenue and 907-969 West 19th Avenue**

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

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

NO PID

LOT 1 BLOCK 536 DISTRICT LOT 472 GROUP 1
NWD PLAN EPP129611

in substantially the form and substance of the Housing Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the agreement on behalf of the City, and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.

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

ENACTED by Council this day of , 2024

Mayor

City Clerk



Land Title Act

Charge

General Instrument – Part 1

1. Application

Lawson Lundell LLP (Ben Westerterp / Jillian Sych)
1600 - 925 West Georgia Street
Vancouver BC V6C 3L2
(604) 685-3456

File No.: 039551-167630

Housing Agreement (906-982 W. 18th Ave. and 907-969 W. 19th Ave)

2. Description of Land

PID/Plan Number	Legal Description
-----------------	-------------------

EPP129611	LOT 1 BLOCK 536 DISTRICT LOT 472 GROUP 1 NWD PLAN EPP129611
------------------	--

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Section 219
		Entire Instrument
PRIORITY AGREEMENT		Granting the Covenant with one registration number less than this priority agreement priority over Mortgage CA4583238, as extended and Assignment of Rents CA4583239, as extended

4. Terms

Part 2 of this instrument consists of:

(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

SHAUGHNESSY LAUREL INVESTMENTS LTD., NO.BC1423165

THE BANK OF NOVA SCOTIA, AS TO PRIORITY

6. Transferee(s)

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

7. Additional or Modified Terms



Land Title Act

Charge

General Instrument – Part 1

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)

YYYY-MM-DD
2024-10-30

**SHAUGHNESSY LAUREL
INVESTMENTS LTD.**

By their Authorized Signatory

Name: David Waldref

MEGHAN MURTHA
Barrister & Solicitor
WESGROUP PROPERTIES
#2000 - 595 BURNARD STREET
VANCOUVER, B.C. V6C 0E4
TEL: 778-875-4688

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)

YYYY-MM-DD

THE BANK OF NOVA SCOTIA
By their Authorized Signatory

Name:

Name:

Officer Certification

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



Land Title Act

Charge

General Instrument – Part 1

Witnessing Officer Signature

Execution Date

YYYY-MM-DD

Transferor / Transferee / Party Signature(s)

CITY OF VANCOUVER

By their Authorized Signatory

Name:

Name:

Officer Certification

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

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 HOUSING**

906-982 WEST 18TH AVENUE AND 907-969 WEST 19TH AVENUE

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
 - (i) the Transferor, Shaughnessy Laurel Investments Ltd. is called the "**Owner**", as more particularly defined in Section 1.1; and
 - (ii) the Transferee, City of Vancouver, is called the "**City**" or the "**City of Vancouver**" when referring to corporate entity continued under the *Vancouver Charter*, and "**Vancouver**" when referring to geographic location;
- B. The Owner is the registered owner of the Lands;
- C. The Owner made an application to rezone the Lands (the "**Rezoning Application**") from RT-2 (Residential) District to CD-1 (Comprehensive Development) District, and after a public hearing to consider the rezoning application, the rezoning application was approved by City Council in principle, subject to, among other things, fulfilment of the condition that, prior to enactment of the rezoning by-law (upon enactment, the "**Rezoning By-law**"), the Owner make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement by by-law enacted pursuant to Section 565.2 of the *Vancouver Charter* securing all of the residential units as secured rental housing units with at least 22% (or 1,436 sq. m (15,459 sq. ft.)) 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 subject to other conditions set forth in the minutes of the public hearing (collectively, the "**Housing Condition**"); and
- D. The Owner is entering into this Agreement to satisfy the Housing Condition.

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration (the receipt and sufficiency of which the parties hereby acknowledge and agree to) the Owner and the City, in satisfaction of the requirements of Section 3.1A of the Vancouver DCL By-law and pursuant to Section 565.2 of the *Vancouver Charter* and Section 219 of the *Land Title Act*, agree as follows, in respect of the use of the Lands and the New Building:

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

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

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- (a) **"Agreement"** means this housing agreement and building use covenant, including the foregoing recitals and all schedules hereto;
- (b) **"Approved Housing Operator"** means a "public housing body" as such term is defined in the *Residential Tenancy Regulation* (British Columbia);
- (c) **"Approved Operator Lease"** means a lease of all of the Moderate Income Rental Housing Units to an Approved Housing Operator, in a form acceptable to the City, acting reasonably;
- (d) **"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;
- (e) **"Buildings 2-5"** means, collectively, the buildings labelled as Building 2, Building 3, Building 4 and Building 5 on the Development Plan;
- (f) **"Buildings 2-5 Parcels"** means the parcel(s) of land that will be created by a Subdivision of the Lands and upon which Buildings 2-5 will be situate, which parcel(s) are expected to be located on a portion of Proposed Lot C;
- (g) **"Buildings 6-8"** means, collectively, the buildings labelled as Building 6, Building 7, and Building 8 on the Development Plan;
- (h) **"City"** and **"City of Vancouver"** have the meaning ascribed to those terms in Recital A(ii);
- (i) **"City Manager"** means the chief administrator from time to time of the City and his or her successors in function and their respective nominees;
- (j) **"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;
- (k) **"CMHC Rental Market Survey"** means the annual Rental Market Survey Data Tables conducted and published by the Canada Mortgage Housing Corporation for the City of Vancouver or if such publication is no longer published by the Canada Mortgage Housing Corporation, such other equivalent publication that is acceptable to the General Manager of Planning, Urban Design and Sustainability;
- (l) **"Development"** means the development to be constructed on the Lands as contemplated by the Rezoning By-law, the Building Permits and the Development Permits, namely a mixed-use development including: a six-storey strata-titled residential building with 51 units and a partial storey for an indoor amenity space, 37-space childcare facility at grade delivered turnkey to the City, a six-storey secured rental building with 99 secured rental units, seven townhouse buildings and the dedication of 566.8 sq. m (6,101 sq. ft.) of land at the corner of West 19th Avenue and Laurel Street as park space;

- (m) **"Development Permit"** means any development permit issued by the City authorizing the development of the For-Profit Affordable Rental Housing Parcel and the New Building, as contemplated by the Rezoning By-law;
- (n) **"Development Plan"** means the sketch plan attached to this agreement as Schedule B showing the general location of the buildings comprising the Development;
- (o) **"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;
- (p) **"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;
- (q) **"Effective Date"** means the date as of which this Agreement has been executed by all parties to it;
- (r) **"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) be:

- I. a Canadian citizen;
 - II. an individual lawfully admitted into Canada for permanent residency;
 - III. a refugee sponsored by the Government of Canada; or
 - IV. an individual who has applied for refugee status,
- and who, at the start of the tenancy, has resided in British Columbia for the past twelve (12) consecutive months,

or a person who is otherwise deemed to be an Eligible Person by the General Manager of Planning, Urban Design and Sustainability, in their sole discretion;

- (s) **“Existing Building”** means the buildings situated on the Lands as of the date of this Agreement and which will be replaced in whole or in part by, *inter alia*, the New Building, as contemplated by the Development Permit;
- (t) **“Existing Unit”** means a unit in the Existing Building rented by a Returning Tenant;
- (u) **“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;
- (v) **“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) and does not include use as Seniors Supportive or Assisted Housing, which is specifically excluded;
- (w) **“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;
- (x) **“For-Profit Affordable Rental Housing Parcel”** means the lot intended to be created upon a Subdivision of the Lands and shown labelled as “PROPOSED LOT ‘A’” on the Proposed Subdivision Plan, upon which the New Building will be constructed;
- (y) **“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;

- (z) **"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; 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; and
- (xxi) GST and Income Tax rebates;
- (aa) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
- (bb) "**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;
- (cc) "**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;
- (dd) "**Moderate Income Rental Housing**" means a portion of the For-Profit Affordable Rental Housing in a building that is comprised of at least twenty-two percent (22%) of the residential floor area that is counted in the calculation of the Floor Space Ratio consisting of Dwelling Units with rents that meet the requirements of Section 2.1(o) 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;
- (ee) "**Moderate Income Rental Housing Pilot Program Rezoning Policy**" means the pilot program policy adopted by City Council on November 28, 2017, as amended from time to time thereafter and as may be further amended from time to time hereafter, which policy provides for, *inter alia*, the process, project requirements and available incentives for the development of new buildings where one hundred percent (100%) of the residential floor area is secured rental housing and at least twenty percent (20%) of the residential floor area that is counted in the calculation of the Floor Space Ratio is made available to moderate income households;
- (ff) "**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;

- (gg) **"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 to the satisfaction of the General Manager of Planning, Urban Design and Sustainability, substantially in the form attached hereto as Schedule A, with such amendments or additions thereto as may be required by the General Manager of Planning, Urban Design and Sustainability from time to time;
- (hh) **"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;
- (ii) **"New Building"** means the proposed six-storey new building to be built on a portion of the Lands, within the For-Profit Affordable Rental Housing Parcel and shown as "Building 1" on the Development Plan, as contemplated by a 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 a Development Permit;
- (jj) **"Occupancy Permit"** means a permit issued by the City authorizing the use and occupation of any building, development or partial development on the Lands issued after the Effective Date;
- (kk) **"Occupants"** means persons for whom a Dwelling Unit serves as their Principal Residence and an **"Occupant"** means any one of them, as the context requires;
- (ll) **"Owner"** means the registered owner of the Lands as of the Effective Date, namely, **Shaughnessy Laurel Investments Ltd.** and its successors and assigns;
- (mm) **"Personal Information Protection Act"** means the *Personal Information Protection Act*, S.B.C. 2003, c.63, and all amendments thereto and re-enactments thereof;
- (nn) **"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;
- (oo) **"Proposed Lot C"** means the lot intended to be created upon a Subdivision of the Lands and shown labelled as "PROPOSED LOT 'C'" on the Proposed Subdivision Plan, upon which Buildings 2-5 and Buildings 6-8 will be constructed;
- (pp) **"Proposed Subdivision Plan"** means the sketch plan attached to this agreement as Schedule C showing the approximate location of the lots that are intended to be created upon the initial Subdivision of, inter alia, the Lands;
- (qq) **"Related Person"** means, where the registered or beneficial owner of the Dwelling Unit is:

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- (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;
- (rr) **"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;
- (ss) **"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;
- (tt) **"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;
- (uu) **"Residential Tenancy Act"** means the *Residential Tenancy Act* S.B.C. 2002, c. 78 and all amendments thereto and re-enactments thereof;
- (vv) **"Residential Tenancy Regulation"** means the *Residential Tenancy Regulation*, B.C. Reg. 477/2003 and all amendments thereto and re-enactments thereof;
- (ww) **"Returning Tenant"** means a tenant of the Existing Building who accept the Owner's offer to relocate to the New Building after completion of its construction, in accordance with the Owner's Tenant Relocation Plan;
- (xx) **"Rezoning Application"** has the meaning ascribed to that term in Recital C;
- (yy) **"Rezoning By-law"** has the meaning ascribed to that term in Recital C;
- (zz) **"Seniors Supportive or Assisted Housing"** has the meaning set out in the City's Zoning and Development By-law No. 3575, as of the Effective Date;
- (aaa) **"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;

(bbb) **"Subdivisions"** means, collectively, the following subdivisions:

- (i) the subdivision of, inter alia, the Lands to create separate development lots, as shown on the Proposed Subdivision Plan; and
- (ii) the subdivision of Proposed Lot C to create separate lot(s) in respect of Buildings 6-8 (including the deposit of a phased strata plan in respect of Buildings 6-8)

and **"Subdivision"** means any one of the foregoing;

(ccc) **"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;

(ddd) **"Tenant"** means an Eligible Person who is a tenant of a Moderate Income Rental Housing Unit by way of a Tenancy Agreement;

(eee) **"Tenant Relocation Plan"** means the Owner's Tenant Relocation Plan submitted and approved by the General Manager of Planning, Urban Design and Sustainability, in accordance with the Tenant Relocation and Protection Policy;

(fff) **"Tenant Relocation and Protection Policy"** means the Tenant Relocation and Protection Policy approved by City Council on December 10, 2015, as amended on June 11, 2019 and as may be further amended from time to time;

(ggg) **"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;

- (hhh) "**Vancouver**" has the meaning ascribed to that term in Recital A(ii);
- (iii) "**Vancouver Charter**" means the *Vancouver Charter* S.B.C. 1953, c. 55, and all amendments thereto and re-enactments thereof; and
- (jjj) "**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

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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, 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) 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 the For-Profit Affordable Rental Housing Units comprising not less than twenty-two (22%) percent and 1,436 sq. m (15,459 sq. ft.) of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing (the **"Moderate Income Rental Housing Units"**), all in accordance with the terms of this Agreement, the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building, then 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,

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licensed, 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 Rental Housing Unit, as described in Section 2.1(o) and the Owner will withhold its consent to any assignment or subletting of a Moderate Income Rental Housing Unit in accordance with Section 2.1(e)(v)(D)VI.b;
- (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 not less than one month;
 - (D) clauses providing that:
 - 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;

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- 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 assign or sublet the Moderate Income Rental Housing Unit or assign the Tenancy Agreement in whole or in part, except to an Eligible Person and with the consent of the Owner, provided that:
 - a. the Tenant does not receive a fee for such assignment or subletting and the rent paid by the assignee or sublessee does not exceed the rent payable in the Tenancy Agreement; and
 - b. the Owner will withhold its consent and the Tenant acknowledges that it will not be unreasonable for the Owner to do so, if the assignee or sublessee is not an Eligible Person or if the Tenant receives a fee for such assignment or subletting or the rent paid by the assignee or sublessee exceeds the rent payable in the Tenancy Agreement; and
- VII. the Tenant acknowledges and agrees that each of the foregoing clauses described in subsections I. to VI. is a material term of the Tenancy Agreement;

(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:

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- (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 or by way of an Approved Operator Lease (provided that the Owner and Approved

Housing Operator will deliver a written covenant to the City, in a form acceptable to the General Manager of Planning, Urban Design and Sustainability wherein, *inter alia*, the Approved Housing Operator agrees to comply with the obligations of the Owner herein with respect to the lease or sublease of the Moderate Income Rental Housing Units), 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 Units is sold or otherwise transferred together and as a block to the same legal and beneficial owner, as applicable, and subject to Section 11.8;

- (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 not be unreasonably withheld in respect of the Subdivisions, but which may otherwise 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) with respect to the Moderate Income Rental Housing Units:
 - (i) the initial rental rate for each tenancy of a Moderate Income Rental Housing Unit will not exceed an amount that is 20% below the private apartment average rents for the City of Vancouver applicable to the respective unit type according to the CMHC Rental Market Survey:
 - (A) for the initial tenancy, most recently published at the time when the Occupancy Permit for the New Building is issued; and
 - (B) for all subsequent tenancies, most recently published at the time when the respective tenancy of a Moderate Income Rental Housing Unit commences;

- (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 for the New Building 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 the Occupancy Permit for the New Building;
- (iii) following the issuance of the Occupancy Permit for the New Building, subject to the terms of this Agreement, including, without limitation, that not less than twenty-two (22%) percent and 1,436 sq. m (15,459 sq. ft.) 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 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 Rental Housing 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 Rental Housing Units in the New Building remain unchanged and the initial rent for the newly assigned Moderate Income Rental Housing Unit will be set in accordance with Section 2.1(o)(i)(B); and
- (iv) following the issuance of the Occupancy Permit for the New Building, during a tenancy of a Moderate Income Rental Housing Unit, the Owner shall not increase the rent for the Moderate Income Rental Housing Unit, except for annual increases in rent 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 if there is a change in tenancy of a Moderate Income Rental Housing Unit, the initial rent for the new tenancy will be established in accordance with Section 2.1(o)(i). 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 rent increases permitted under the *Residential Tenancy Act* or the *Residential Tenancy Regulation* for eligible capital expenses incurred with respect to the New Building or a Moderate Income Rental Housing Unit;
- (p) notwithstanding anything to the contrary in this Agreement, if a For-Profit Affordable Rental Housing Unit is rented to a Returning Tenant in accordance with the Owner's Tenant Relocation Plan:
 - (i) the initial rental rate therefor will be:

- (A) if the For-Profit Affordable Rental Housing Unit is of the same unit type as the Existing Unit (an **“Equivalent Unit Type”**), the same as the rental rate paid by the Returning Tenant for the Existing Unit at the date when the Rezoning Application was submitted; or
- (B) if the For-Profit Affordable Rental Housing Unit is a different unit type than the Existing Unit (a **“Non-Equivalent Unit Type”**), the same as the rental rate paid by the Returning Tenant for the Existing Unit as the date when the Rezoning Application was submitted, but adjusted based on a pro-rata amount (calculated based on the difference of rent per square foot between the average unit type sizes);
- (C) for greater certainty, the pro-rata adjustment under Section 2.1(p)(i)(B) will be calculated using the following formula:

$$AR = MR \times (NEUA \text{ divided by } EUA)$$

where,

AR = the adjusted amount of monthly rent determined in accordance with Section 2.1(p)(i)(B);

MR = the monthly rent paid by the Returning Tenant for the Existing Unit as of the date when the Rezoning Application was submitted;

EUA = means the average size of an Equivalent Unit Type in the New Building; and

NEUA = means the average size of the applicable Non-Equivalent Unit Type in the New Building; and

- (D) for each Returning Tenant, the amount of rent determined in accordance with 2.1(p)(i)(B) or 2.1(p)(i)(B), as the case may be, will have added to it the allowable annual rent increase permitted under the Residential Tenancy Act between the date when the Rezoning Application was submitted and the date of initial occupancy for the For-Profit Affordable Rental Housing Unit; and
- (ii) if the initial rental rate for the For-Profit Affordable Rental Housing Unit, as determined by 2.1(p)(i), does not exceed an amount that 20% below the private apartment average rents for the City of Vancouver applicable to the respective unit type according to the CMHC Rental Market Survey most recently published at the time when the Occupancy Permit for the New Building is issued, the For-Profit Affordable Rental Housing Unit may be included as a Moderate Income Rental Housing Unit, provided always that the Returning Tenant will not be subject to the requirements of Sections 1.1(r)(i) and 1.1(r)(ii) and will be deemed to be an Eligible Person hereunder and the Owner will not be required to carry out the obligations under Section 2.1(g) with respect to the Returning Tenants.

**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 construction and use of the New Building, that throughout the Term:
- (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 for the New Building, and will take no action, directly or indirectly, to compel the issuance of any Development Permit for the New Building, until such time as the Owner has confirmed in writing and to the satisfaction of the General Manager of Planning, Urban Design and Sustainability, the initial rent amounts proposed to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit for the New Building, and the unit type mix and size, unit type and mix 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 for 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 9, 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 for the New Building 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 construction and use of the New Building, that throughout the Term:
- (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 for the New Building, and will take no action, directly or indirectly, to compel the issuance of any Building Permit for the New Building, until such time as the Owner has confirmed in writing and to the satisfaction of the General Manager of Planning, Urban Design and Sustainability, the rent structure proposed to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit for the New Building, and the unit type mix and size, unit type and mix 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 for the New Building until such time as the Owner has complied with Section 4.1(a)(i); and

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- (b) without limiting the general scope of ARTICLE 9, 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 Building Permit for the New Building 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 construction and use of the New Building and Buildings 2-5, that throughout the Term:

- (a) the Lands, the New Building and Buildings 2-5 will not be used or occupied except as follows:
 - (i) the Owner will not suffer or permit the occupation of:
 - (A) 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 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 and mix shall comply with those applicable to the Moderate Income Rental Housing Units in accordance with this Agreement and the Development Permit; and
 - II. a rent roll of the Returning Tenants, the units in Building 1 rented by the Returning Tenants, the rent paid by each Returning Tenant for his or her Existing Unit and for his or her new For-Profit Affordable Rental Housing Unit in the New Building; and
 - (B) Buildings 2-5 and the Buildings 2-5 Parcels and will take no action, directly or indirectly, to compel the issuance of any such Occupancy Permit therefor until such time as an Occupancy Permit has been issued for the New Building; and
 - (ii) the City will be under no obligation to issue any Occupancy Permit for the New Building or Buildings 2-5, notwithstanding completion of construction of the New Building and/or Buildings 2-5 until such time as the Owner has complied with Section 5.1(a)(i); and
- (b) without limiting the general scope of ARTICLE 9, 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 or Buildings 2-5 until there is compliance with the provisions of this ARTICLE 5.

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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 a written request by the General Manager of Planning, Urban Design and Sustainability, from time to time, notwithstanding that the Owner may have already provided a Moderate Income Rental Housing Report in the same calendar year, 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 SUBDIVISION OF THE LANDS

- 8.1 It is intended that the Owner will complete the Subdivisions and:
- (a) subject to compliance by the Owner with all applicable requirements of the City's Approving Officer and the City's elected Council, this Agreement and all applicable

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laws and by-laws with respect to such subdivision, the Owner will construct all the For-Profit Affordable Rental Housing Units within the New Building on the For-Profit Affordable Rental Housing Parcel; and

(b) following:

- (i) each of the Subdivisions, the Owner may apply to the City for a partial discharge of this Agreement with respect to the parcels other than the For-Profit Affordable Rental Housing Parcel and the Buildings 2-5 Parcels, and the City will on request of the Owner execute and deliver a registrable partial discharge in respect of such other parcel(s); and
- (ii) the issuance of an Occupancy Permit for the New Building, the Owner may apply to the City for a partial discharge of this Agreement with respect to the Buildings 2-5 Parcels, and the City will on request of the Owner execute and deliver a registrable partial discharge in respect of such parcel,

provided, that:

- (iii) the Director of Legal Services is satisfied that the respective partial discharge will not unreasonably alter, restrict or limit the City's rights and the Owner's agreements and obligations in respect of the For-Profit Affordable Rental Housing Units, including, for clarity, the Moderate Income Rental Housing Units or in respect of the For-Profit Affordable Rental Housing Parcel, pursuant to this Agreement;
- (iv) the partial discharge will be in form and substance acceptable to the Director of Legal Services and will be prepared by the Owner at its cost;
- (v) the City will have a reasonable amount of time to execute and return the partial discharge; and
- (vi) the preparation and registration of the partial discharge will be without cost to the City.

ARTICLE 9 RELEASE AND INDEMNITY

9.1 Release and Indemnity. Except in each case to the extent attributable to the wrongful intentional acts or gross negligence of the City or the City Personnel, and subject to Section 9.2, 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:

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- 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 9 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted in this Agreement.

9.2 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 9.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 9.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 9.2(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 9.2(b); and

- (c) Regardless of whether the claim is being defended under Section 9.2(a) or Section 9.2(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.

9.3 Survival of Release and Indemnities. The release and indemnities in this Article 8 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 10 NOTICES

10.1 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:

Shaughnessy Laurel Investments Ltd.
Suite 2000, 595 Burrard Street
Vancouver, British Columbia
V6C 0E4

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 land title search for that particular parcel of land.

ARTICLE 11 MISCELLANEOUS

11.1 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 11.8, 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.

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- 11.2 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 Crown grant 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.
- 11.3 Application of Residential Tenancy Act to Termination Notice. The City agrees that, in the event the Owner or Approved Housing Operator 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 or Approved Housing Operator, including any error by the Owner or Approved Housing Operator 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-two (22) percent and 1,436 sq. m (15,459 sq. ft.) 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) 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-two (22) percent and 1,436 sq. m (15,459 sq. ft.) of the residential floor areas, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant; and
 - (b) the Moderate Income Rental Housing Unit to which such ineffective termination notice relates shall not be rented, leased, licenced, used or otherwise permitted to be occupied unless it is rented, leased, licenced, used to or occupied by an Eligible Person, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant.
- 11.4 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.
- 11.5 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.

- 11.6 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.
- 11.7 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*.
- 11.8 Sale of Lands and New Building or Part Thereof. Prior to the sale or transfer of any legal or beneficial interest (other than the transfer of an interest by way of mortgage, where the mortgagee has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage), and subject always to Sections 2.1(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 11.8 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).

For greater certainty, the requirements of this Section 11.8 will not apply to the sale or transfer of any parcel(s) for which the City grants a partial discharge in accordance with Section 8.1.

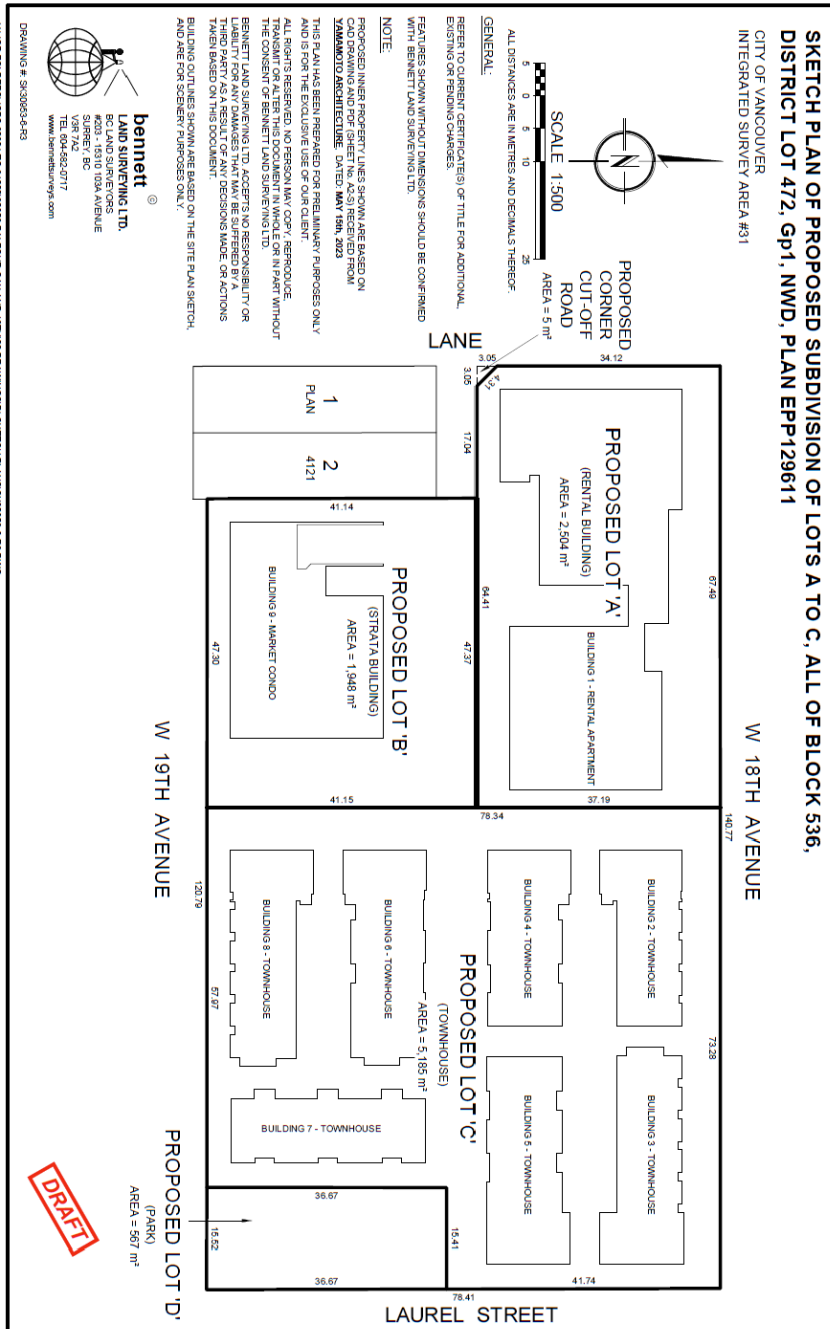
- 11.9 Owner's Representations. The Owner represents and warrants to and covenants and agrees with the City that:
- (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all legal and beneficial interests in the title to the Lands 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.
- 11.10 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.
- 11.11 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.
- 11.12 Paramountcy. Notwithstanding anything to the contrary herein, the Owner and City acknowledge and agree that, as it relates to the measurement standard used to determine the minimum portion of Moderate Income Rental Housing Units in the New Building, in the event of any inconsistency between the provisions of this Agreement, and the provisions of the Rezoning By-law, the provisions of the Re-zoning By-law will control.

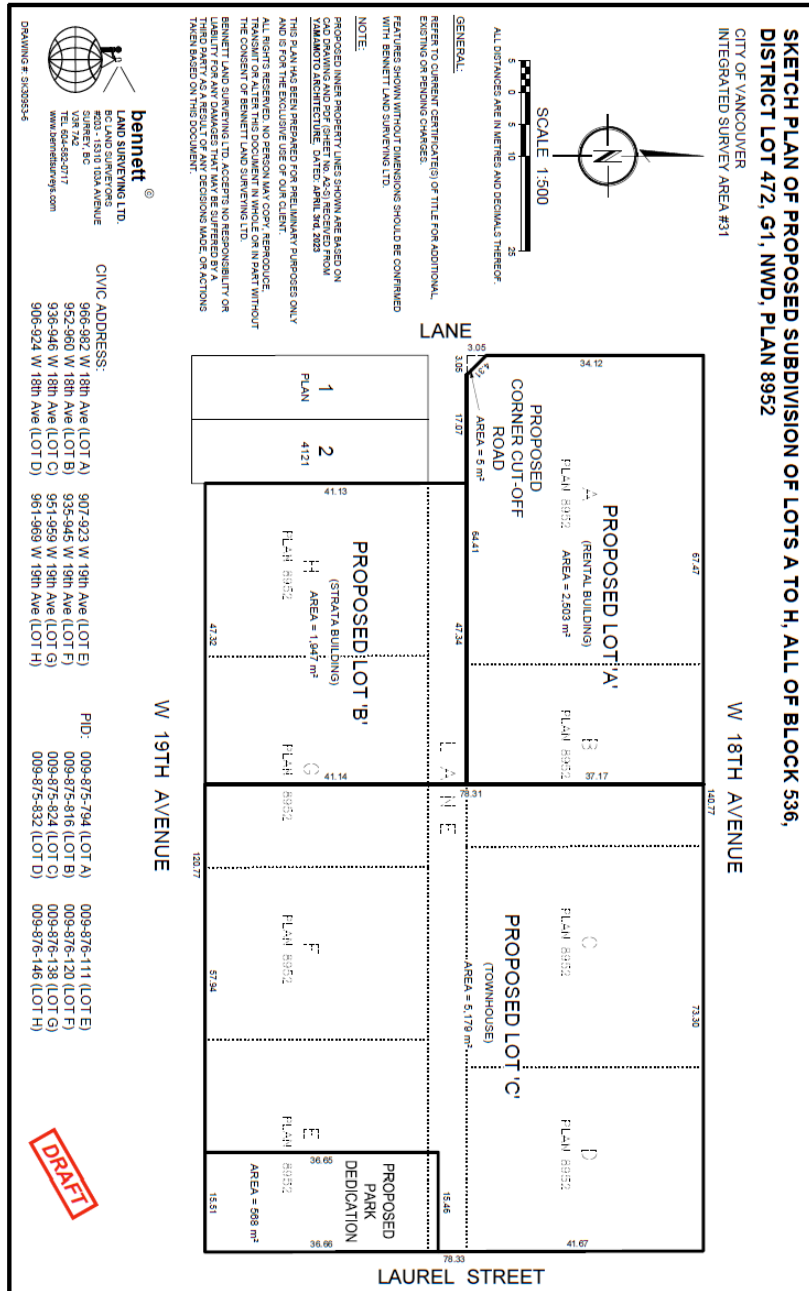
IN WITNESS WHEREOF the parties have executed this Agreement on the Forms C or D which are a part hereof.

[illegible]

SCHEDULE B
DEVELOPMENT PLAN OF THE LANDS



SCHEDULE C
PROPOSED SUBDIVISION PLAN



CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) **"Existing Charges"** means the Mortgage registered under number CA4583238, as extended, and the Assignment of Rents registered under number CA4583239, as extended;
- (b) **"Existing Chargeholder"** means The Bank of Nova Scotia;
- (c) **"New Charges"** means the Housing Agreement and Section 219 Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

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

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

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

END OF DOCUMENT

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 3529 - 3589 Arbutus Street and 2106 West 19th Avenue**

After public hearing on November 16, 2023, Council approved in principle the land owner's application to rezone the above noted property from R1-1 (Residential) District to RR-2B (Residential Rental) District, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant, and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services
November 12, 2024

BY-LAW NO.

**A By-law to enact a Housing Agreement
for 3529 - 3589 Arbutus Street and 2106 West 19th Avenue**

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

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

PID: 011-259-655	Lot 9 Block 531 District Lot 526 Plan 4998
PID: 010-724-559	Lot 10 Block 531 District Lot 526 Plan 4998
PID: 011-259-671	Lot 11 Block 531 District Lot 526 Plan 4998
PID: 007-550-341	Lot 12 Block 531 District Lot 526 Plan 4998
PID: 011-259-698	Lot 13 Block 531 District Lot 526 Plan 4998

and which will be legally described as follows after subdivision:

EPP139439	Lot A Block 531 District Lot 526 Group 1 New Westminster District Plan EPP139439
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in substantially the form and substance of the Housing Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the agreement on behalf of the City, and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.

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

ENACTED by Council this day of , 2024

Mayor

City Clerk



Land Title Act

Charge

General Instrument – Part 1

1. Application

**PLLR Lawyers
Suite 500 North Tower, 5811 Cooney Road
Richmond BC V6X 3M1
6042762765**

111394/3529 - 3589 Arbutus St. and 2106 W 19th Ave
Housing Agreement and Building Use Covenant

2. Description of Land

PID/Plan Number	Legal Description
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EPP139439	LOT A BLOCK 531 DISTRICT LOT 526 GROUP 1 NWD PLAN EPP139439
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3. Nature of Interest

Type	Number	Additional Information
COVENANT		Entire Agreement Section 219 Covenant

4. Terms

Part 2 of this instrument consists of:

(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

DXX INVESTMENTS LTD., NO.BC1237088

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)



TONY S.T. KWAN
Barrister & Solicitor
Suite 500 North Tower, 5811 Cooney
Road
Richmond BC V6X 3M1

YYYY-MM-DD

2024-10-30

DDX INVESTMENTS LTD.
By their Authorized Signatory



Xiang Xiao

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 their Authorized Signatory

Officer Certification

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

Electronic Signature

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

**TERMS OF INSTRUMENT - PART 2
HOUSING AGREEMENT AND BUILDING USE COVENANT
(SECURED MARKET RENTAL)**

3529 - 3589 ARBUTUS STREET AND 2106 WEST 19TH AVENUE

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement shall be read as follows:
- (i) the Transferor, **DXX INVESTMENTS LTD.**, is herein called the “**Owner**” as more particularly defined in Section 1.1; and
 - (ii) the Transferee, **CITY OF VANCOUVER**, is herein called the “**City**” or the “**City of Vancouver**” when referring to corporate entity, and “**Vancouver**” when referring to geographic location;
- B. The Owner is the registered and beneficial owner of the Lands;
- C. The Owner made an application to rezone the Lands from R1-1 (Residential) District to RR-2B (Residential Rental) District to permit the development of a five-storey rental building, and after a public hearing to consider the rezoning application, the rezoning application was approved by City Council in principle, subject to, among other things, fulfilment of the condition that, prior to enactment of the rezoning by-law (upon enactment, the “**Rezoning By-law**”), the Owner make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Section 219 Covenant and Housing Agreement by by-law enacted pursuant to Section 565.2 of the Vancouver Charter securing all residential units as secured market rental housing units, excluding Seniors Supportive or Assisted Housing, pursuant to the City’s Secured Rental Policy, for a term equal to the longer of 60 years and the life of the building, subject to a no-separate-sales covenant and a no-stratification covenant, and that no such units will be rented for less than one month at a time, and such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may require (collectively, the “**Housing Condition**”); and
- D. The Owner is entering into this Agreement to satisfy the Housing Condition.

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

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

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

- (a) “**Agreement**” means this housing agreement and building use covenant, including the foregoing Recitals;

- (b) **“Building”** means each new building or structure to be built on the Lands as contemplated by the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (c) **“City”** and **“City of Vancouver”** have the meaning ascribed to those terms in Recital A(ii);
- (d) **“City Manager”** means the chief administrator from time to time of the City and her/his 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 Permit”** means any development permit issued by the City at any time following the date this Agreement is fully executed by the parties authorizing development on the Lands (or any portion of the Lands);
- (h) **“Director of Legal Services”** means the chief administrator from time to time of the Legal Services Department of the City and her/his successors in function and their respective nominees;
- (i) **“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;
- (j) **“Housing Condition”** has the meaning ascribed to that term in Recital C;
- (k) **“Housing Unit”** means a self-contained residential unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (l) **“Land Title Act”** means the *Land Title Act*, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
- (m) **“Lands”** means the parcel of land situate in the City of Vancouver, British Columbia, and legally described in Item 2 of the General Instrument - Part 1 to which these Terms of Instrument - Part 2 are attached, and includes any parcels into which such land is consolidated or further subdivided (including, without limitation, a subdivision pursuant to the *Land Title Act* and a subdivision pursuant to the *Strata Property Act*);
- (n) **“Losses”** means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, judgments, builders liens, liabilities, indirect or consequential

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

- (o) **“Market 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;
- (p) **“Market Rental Housing Units”** has the meaning ascribed to that term in Section 2.1(b);
- (q) **“Occupancy Permit”** means a permit issued by the City at any time following the Commencement Date authorizing the use and occupation of any Building, development or partial development on the Lands or any portion of the Lands;
- (r) **“Owner”** means the Transferor, DXX Investments Ltd., and all assigns, successors and successors in title to the Lands or any part thereof;
- (s) **“Owner’s Personnel”** means any and all of the contractors, subcontractors, employees, agents, licensees, invitees and permittees of the Owner;
- (t) **“Related Person”** means, where the registered or beneficial owner of the Market Rental Housing Units is:
 - (i) a corporation (as that term is defined in the *Business Corporations Act* (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;
- (u) **“Replacement Rental Housing Unit”** has the meaning ascribed to that term in Section 2.1(k)2.1(k) and **“Replacement Rental Housing Units”** means all of such units;
- (v) **“Residential Tenancy Act”** means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, and all amendments thereto and re-enactments thereof;
- (w) **“Rezoning By-law”** has the meaning ascribed to that term in Recital C;
- (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 Building is demolished or substantially destroyed; or
- (ii) 60 years from the date when the final Occupancy Permit is issued for the Market Rental Housing Units;
- (y) “**Vancouver**” has the meaning ascribed to that term in Recital A(ii); and
- (z) “**Vancouver Charter**” means the *Vancouver Charter*, S.B.C. 1953, c. 55, and all amendments thereto and re-enactments thereof.

1.2 Interpretation. In this Agreement:

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

ARTICLE 2 RESTRICTIONS ON USE AND SUBDIVISION

2.1 The Owner covenants and agrees that: throughout the Term, the Lands and the Building will not be used in any way that is inconsistent with the terms of this Agreement;

- (b) when and if it carries out any development on the Lands after the Commencement Date, it will construct, fit, and finish and throughout the Term will maintain, at its sole cost and expense, the Building to contain such number of Housing Units and related amenity and parking spaces as required by and in accordance with the Housing Condition, the Development Permit, any building permit issued pursuant thereto and the requirements of this Agreement (the “**Market Rental Housing Units**”), all to the satisfaction of the City;
- (c) throughout the Term, not less than 35% of the Market Rental Housing Units (or Replacement Rental Housing Units, as applicable) will have at least two (2) bedrooms to the satisfaction of the City, and provided that, subject to the approval and confirmation in writing by the General Manager of Planning, Urban Design and Sustainability or the Development Permit Board in their sole discretion, and compliance with this Agreement and any issued Development Permit and/or Building Permit and all applicable City by-laws and policies, such unit mix may be adjusted prior to issuance of the Development Permit and/or prior to issuance of the Occupancy Permit, without amendment to this Agreement;
- (d) throughout the Term, all of the Market Rental Housing Units (or Replacement Rental Housing Units, as applicable) will only be used for the purpose of providing Market Rental Housing;
- (e) throughout the Term, it will not rent, licence to use or sublet any Market Rental Housing Units (or Replacement Rental Housing Units, as applicable) for a term of less than 30 consecutive days, nor will it allow to be rented, licensed to use or sublet any Market Rental Housing Units (or Replacement Rental Housing Units, as applicable) for a term of less than 30 consecutive days;
- (f) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any Market Rental Housing Unit (or Replacement Rental Housing Units, as applicable) to be sold or otherwise transferred unless title to every Market Rental Housing Unit (or Replacement Rental Housing Units, as applicable) is sold or otherwise transferred together and as a block to the same beneficial and legal owner, and unless such transferee concurrently enters into an assumption agreement satisfactory to the City whereby it agrees to be and thereafter remain bound by each and every term and condition of this Agreement applicable to the Owner of the Market Rental Housing Units subject further to Section 7.8;
- (g) throughout the Term, it will not suffer, cause or permit the Lands or the Building (or any replacement building(s) on the Lands, as applicable), or any part thereof, to be subdivided, whether by subdivision plan, strata plan, air space plan, or

otherwise, without the prior written consent of the City, which consent may be arbitrarily withheld;

- (h) throughout the Term, any sale of a Market Rental Housing Unit (or Replacement Rental Housing Units, as applicable) in contravention of the covenant in Section 2.1(f), and any subdivision in contravention of Section 2.1(g), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (i) it will insure, or cause to be insured, the Building, the Market Rental Housing Units (or Replacement Rental Housing Units, as applicable) and all parts thereof to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands;
- (j) throughout the Term, it will keep and maintain the Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, reasonable wear and tear excepted. If the Market Rental Housing Units (or Replacement Rental Housing Units, as applicable) or any part of any thereof are/is damaged, the Owner will promptly restore and repair the same whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred; and
- (k) if the Building is destroyed or demolished before the end of the 60th anniversary of the date when the final Occupancy Permit is issued for the Building, then any replacement building(s) built on the Lands (together with any remaining undestroyed or undemolished building(s)) will also contain not less than the same number and type of replacement Market Rental Housing Units as the Building formerly contained, which replacement Market Rental Housing Units will also be used only for the purpose of providing Market Rental Housing (each such replacement Market Rental Housing Unit is herein 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 RECORD KEEPING

3.1 During the Term, the Owner will keep accurate copies of all tenancy agreements pertaining to the use and occupancy of the Market Rental Housing Units including any amendments thereto or renewals thereof, all to the satisfaction of the City. At the request of the City, from time to time during the Term, the Owner will make copies of such tenancy agreements and any amendments thereto or renewals thereof 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.

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.

RELEASE AND INDEMNITY

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

- (a) releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner and covenants and agrees to indemnify and save harmless the City and all City Personnel from and against all Losses which may arise, accrue or be incurred by the City or any City Personnel or which are made by any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to:
 - (i) by reason of the City or City Personnel:
 - (A) reviewing, accepting or approving the design, specifications, materials and methods for construction of the Market Rental Housing Units;
 - (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 5 will be both personal covenants of the Owner and integral parts of the Section 219 covenants 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, shall be in writing and shall be given by registered mail or personal delivery, addressed as follows: If to the City:

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:

DXX Investments Ltd.
6640 - 8181 Cambie Road
Richmond, British Columbia
V6X 3X9

Attention: Danny Xiao

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 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.

7.2 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.

7.3 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.

7.4 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.

7.5 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.

7.6 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 Crown grant respecting the Lands;
- (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of the Development Permit; and
- (c) which the Director of Legal Services has determined, in her/his sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.

7.7 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.

7.8 Transfer of Lands. The Owner covenants and agrees with the City that upon any sale, transfer or conveyance of the Lands charged by this Agreement, or any portion thereof, to any person, trust, corporation, partnership or other entity, the Owner will obtain from such person, trust, corporation, partnership or entity and deliver to the City a duly executed acknowledgement, in form and substance satisfactory to the Director of Legal Services, of the terms of this Agreement and an assumption of the continuing obligations of the Owner pursuant to this Agreement relative to that portion of the Lands sold, transferred or conveyed to such person, trust, corporation, partnership or entity. Provided any such purchaser/ transferee enters in to an assumption agreement as provided in this Section 7.8, the selling/ transferring Owner shall not be bound by the continuing obligations of the Owner pursuant to this Agreement following such sale, transfer or conveyance relative to that portion of the Lands sold, transferred or conveyed.

7.9 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.

7.10 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 Form C which is a part hereof.

END OF DOCUMENT

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 4949 – 5255 Heather Street and 657 – 707 West 37th Avenue – Parcel B**

On May 24, 2022, City Council approved in principle a CD-1 By-law for the above noted property subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services, prior to the enactment of the CD-1 By-law.

A Housing Agreement has been accepted and executed by the applicant land owner, 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
November 12, 2024

BY-LAW NO.

**A By-law to enact a Housing Agreement for
4949 – 5255 Heather Street and 657 – 707 West 37th Avenue – Parcel B**

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

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

EPP141535

Lot 7 Block 839 DL 526 NWD Plan EPP141535

in substantially the form and substance of the Housing Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the agreement on behalf of the City, and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.

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

ENACTED by Council this day of November, 2024

Mayor

City Clerk



Land Title Act

Charge

General Instrument – Part 1

1. Application

**Michelle Stewart, Paralegal of Fasken Martineau
DuMoulin LLP
Barristers and Solicitors
2900-550 Burrard Street
Vancouver BC V6C 0A3
6046314975**

LTO Client No. 11565
Matter No. 313958.00004/13625/SAB

2. Description of Land

PID/Plan Number	Legal Description
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EPP141535	LOT 7 BLOCK 839 DL 526 NWD PLAN EPP141535
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3. Nature of Interest

Type	Number	Additional Information
COVENANT		Entire Instrument

4. Terms

Part 2 of this instrument consists of:

(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

CANADA LANDS COMPANY CLC LIMITED, NO.A0047912

6. Transferee(s)

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

7. Additional or Modified Terms



Land Title Act

Charge

General Instrument – Part 1

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

Sarah Batut
Barrister & Solicitor
Fasken Martineau DuMoulin LLP
2900-550 Burrard Street
Vancouver BC V6C 0A3

(AS TO BOTH SIGNATURES)

Execution Date

YYYY-MM-DD

2024-11-01

Transferor / Transferee / Party Signature(s)

**CANADA LANDS COMPANY CLC
LIMITED**

By their Authorized Signatory

**Name: Deana Grinnell, Executive
Vice President, Real Estate**

**Name: Elisa Campbell, Vice
President, Real Estate West**

Officer Certification

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

Witnessing Officer Signature

Execution Date

YYYY-MM-DD

Transferor / Transferee / Party Signature(s)

CITY OF VANCOUVER

By their Authorized Signatory

Name: _____

Officer Certification

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

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 BELOW MARKET RENTAL HOUSING

4949 - 5255 HEATHER STREET AND 657 - 707 WEST 37TH AVENUE - PARCEL B

WHEREAS:

- A. It is understood and agreed that this Agreement will be read as follows:
- (1) the Transferor, Canada Lands Company CLC Limited, is called the “Owner”;
 - (2) the Transferee, City of Vancouver, is called the “City” or “City of Vancouver” when referring to the corporate entity and “Vancouver” when referring to geographical location;
- B. The Owner is the registered owner of the Lands but all parties recognize and agree that the Lands are being redeveloped in joint venture with the xʷməθkʷəy̓əm (Musqueam Indian Band), Skwxwú7mesh (Squamish Nation), and səliłwətał (Tsleil-Waututh Nation) (collectively, the “MST Nations”);
- C. The Owner and MST Nations made an application to rezone the Rezoning Lands more particularly set out in Schedule A (the “Rezoning Lands”) from CD-1 (52A) and CD-1 (80) to two new CD-1 (Comprehensive Development) Districts (CD-1 South and CD-1 North) to permit a multi-phased mixed use development with a combined total floor area of 234,219 sq. m. (2,521,107 sq. ft.) in buildings ranging from 3-to-28 storeys for commercial, residential, community and cultural uses (the “Rezoning”). After a public hearing to consider the Rezoning, the Rezoning application was approved by City Council in principle on May 24, 2022, subject to the fulfilment of certain conditions, as more particularly set out in the public hearing minutes;
- D. The completion of the Rezoning will be undertaken and led by the MST Nations through their wholly owned MST Development Corporation, in collaboration with the Owner, and after enactment of each of the CD-1 South and CD-1 North rezoning by-laws, the Rezoning Lands subject to the enacted by-laws will be transferred to entities owned (directly or indirectly) by the MST Nations, which are anticipated to include future joint-venture partnerships to be determined by the MST Nations, which future joint-venture partnerships would lead the continued redevelopment of such Rezoning Lands;
- E. The project represents a significant milestone and benchmark for the City’s efforts toward Reconciliation. The redevelopment approach for the Rezoning Lands is guided by the following principles:
- (a) Strengthen the relationship with the xʷməθkʷəy̓əm, Skwxwú7mesh, and səliłwətał and Indigenous Peoples by acknowledging the truth of residential schools and the impact of loss of land and culture, and support the creation of a unique place that represents the cultural values of the xʷməθkʷəy̓əm, Skwxwú7mesh, and səliłwətał Peoples;
 - (b) Recognize the Rezoning Lands as a site of Reconciliation by carefully considering

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Housing Agreement and Building Use Covenant
(Rental and Below Market)

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the application of City policies to the Rezoning Lands, including the City's typical approach to heritage and land ownership, and support a strong cultural presence by the replacement of the former RCMP building with a xʷməθkʷəy̓əm, Sḵwxwú7mesh, and səliwətaʔ self-determined cultural centre;

- (c) Reflect Government-to-Government relationship in decision-making and in establishing ownership and operation of the community amenities to be constructed on the Rezoning Lands; and
 - (d) Support the long-term retention of the Rezoning Lands by the MST Nations for the benefit of future generations through the use of non-standard approaches for community amenities and financial securities;
- F. The Owner and MST Nations have elected to proceed with enactment of the CD-1 South Rezoning By-law ahead of enactment of the CD-1 North Rezoning By-law;
- G. The following conditions of the Rezoning which are required for the enactment of the CD-1 South Rezoning By-law (the "CD-1 South Secured Rental and Below Market Rental Housing Conditions") have not yet been fulfilled in whole or in part:

"Secured Market Rental Housing and Below Market Rental Housing"

- 2.14 *Make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into one or more Housing Agreements and/or Section 219 Covenants to secure a minimum of 373 residential units as secured market rental housing units, located on Parcels B and F combined, for the longer of 60 years or the life of the respective buildings, subject to no-separate-sales covenants and a no-stratification covenants, and such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may require.*

Note to Applicant: This condition will be secured by one or more Housing Agreements to be entered into by the City at by-law enactment pursuant to Section 565.2 of the Vancouver Charter and/or Section 219 Covenants.

- 2.15 *Make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into one or more Housing Agreements and/or Section 219 Covenants to secure a minimum of 33,543 sq. m. (361,059 sq. ft.) of residential floor space, and approximately 373 residential units located on Parcels B and F combined, as secured rental housing, including at least 25 per cent of the residential floor area that is counted in the calculation of the market rental dwelling unit area per the CD-1 By-law (at least 8,385 sq. m. [90,265] sq. ft.) as below-market rental units ("below-market rental units"). The below-market rental units are to be rented at 25% below the CMHC city-wide average market rents, and the remaining units to be secured as market rental units, subject to the conditions set out below for such units, for a term equal to the longer of 60 years and the life of the respective building. The agreement or agreements will include, but not be limited to, the following conditions, and requirements:*

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- (a) A no separate sales covenant;
- (b) A no stratification covenant;
- (c) A provision that not [sic] of such units will be rented for less than one month at a time;
- (d) A provision that none of such units will be Seniors Supportive or Assisted Housing;
- (e) That a rent roll will be provided indicating the agreed initial monthly rents for each below market rental unit at time of the respective occupancy permit application;
- (f) That the average initial starting monthly rents for all below market rental housing units in the project will be at or below 25% below the CMHC city-wide average market rent;
- (g) That rent increases for the below market rental units will be capped at the Residential Tenancy Act maximum annual allowable increase, as published by the Province of British Columbia, regardless of a change in occupancy;
- (h) That the applicant will verify eligibility of new tenants for the units secured at below market rates, based on the following:
 - i) For new tenants, annual household income cannot exceed (4) four times the annual rent for the unit (i.e. at least 25% of household income is spent on rent); and
 - ii) There should be at least one occupant per bedroom in the unit.
- (i) That the applicant will verify the ongoing eligibility of existing tenants in the units secured at below market rates every five (5) years after initial occupancy:
 - i) For such tenants, annual household income cannot exceed 5 times the annual rent for the unit (i.e. at least 20% of income is spent on rent); and
 - ii) There should be at least one occupant per bedroom in the unit.
- (j) On an annual basis, or at the request of the City, the applicant will report to the City of Vancouver on the operation of the below market rental units which will ensure that the City can confirm that the units are being operated as agreed, and will include a rent roll for the below market rental units, and a summary of the results of eligibility testing for these units; and
- (k) Such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may require in their sole discretion.”; and

H. The Owner is entering into this Agreement to satisfy the CD-1 South Secured Rental and Below Market Rental Housing Conditions with respect to the Lands; and

I. The MST Nations, through the future joint-venture partnerships, intend to lease the Lands
 {01952284v8} Housing Agreement and Building Use Covenant
 (Rental and Below Market)

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or portions thereof to Lessee(s) pursuant to Lease(s).

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 Rental 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) **“Below Market Rental Housing”** means a portion of the 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(o) of this Agreement (as adjusted in accordance with Section 2.1(r)), are made available for rent only to Eligible Persons in accordance with this Agreement and comply with the Issues Report: Direction for Intensification of Large Sites to Include Moderate Income Rental Housing presented to City Council on July 23, 2019 and incorporated into the Rezoning Policy for Sustainable Large Developments adopted by City Council on July 25, 2018 and subsequently amended on September 15, 2020, January 19, 2021, July 20, 2021, July 25, 2023, October 4, 2023, and April 23, 2024;
- (c) **“Below Market Rental Housing Rent Roll”** means a rent roll report providing information regarding each of the Below Market Rental Housing Units, including the unit number, unit type, unit size and rent;
- (d) **“Below Market Rental Housing Report”** means a notarized annual report prepared by the Owner or Lessee and delivered to the City providing information regarding each of the Below Market Rental Housing Units, including but not limited to the following:
 - (i) unit number for the Below Market 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

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- (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;

- (e) **“Below Market Rental Housing Units”** has the meaning ascribed to that term in Section 2.1(c) and **“Below Market Rental Housing Unit”** means any one of such units;
- (f) **“Building Permit”** means any building permit issued by the City authorizing the construction of a New Building as contemplated by the CD-1 South Rezoning By-law and the Development Permit;
- (g) **“CD-1 North”** means the comprehensive development district anticipated to be comprised of the northern portion of the Rezoning Lands as more particularly shown on the sketch plan attached as Schedule B, and anticipated to contain CD-1 sub-areas G, H, I and J;
- (h) **“CD-1 North Rezoning By-law”** means the by-law enacting the Rezoning for CD-1 North;
- (i) **“CD-1 South”** means the comprehensive development district comprised of the southern portion of the Rezoning Lands as more particularly shown on the sketch plan attached as Schedule B, and containing CD-1 sub-areas A, B, C, D, E and F;
- (j) **“CD-1 South Rezoning By-law”** means the by-law enacting the Rezoning for CD-1 South;
- (k) **“CD-1 South Secured Rental and Below Market Rental Housing Conditions”** has the meaning ascribed to that term in Recital G;
- (l) **“City”** and **“City of Vancouver”** have the meaning ascribed to those terms in Recital A(2);
- (m) **“City Manager”** means the chief administrator from time to time of the City and his or her successors in function and their respective nominees;
- (n) **“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;
- (o) **“CMHC”** means the Canada Mortgage and Housing Corporation;
- (p) **“CMHC Rental Market Survey”** means the then current annual Rental Market Survey conducted by the CMHC for Vancouver or an equivalent publication that is acceptable to the General Manager of Planning, Urban Design and Sustainability;

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- (q) **“Development Permit”** means any development permit issued by the City authorizing the development on the Lands or any portion of the Lands contemplated by the CD-1 South Rezoning By-law;
- (r) **“Director of Legal Services”** means the chief administrator from time to time of the Legal Services Department of the City and her or his successors in function and their respective nominees;
- (s) **“Director of Planning”** means the director of planning appointed by the City from time to time and their successors in function and their respective nominees;
- (t) **“Dwelling Unit”** has the meaning set out in the Zoning and Development By-law No. 3575;
- (u) **“Effective Date”** means the date as of which this Agreement has been executed by all parties to it;
- (v) **“Eligible Person”** means a person who:
 - (i) at the beginning of such person’s tenancy of a Below Market Rental Housing Unit, together with all other Occupants of such Below Market Rental Housing Unit, have an aggregate annual household Income that is less than or equal to four (4) times the annual rent of such Below Market Rental Housing Unit established in accordance with Section 2.1(o);
 - (ii) thereafter throughout such person’s tenancy of a Below Market Rental Housing Unit, together with all other Occupants of such Below Market Rental Housing Unit, have an aggregate annual household Income that is less than or equal to five (5) times the annual rent of such Below Market Rental Housing Unit established in accordance with Section 2.1(o), as adjusted in accordance with Section 2.1(r); and
 - (iii) throughout such person’s tenancy of a Below Market Rental Housing Unit, will:
 - (A) not permit such Below Market 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 or Lessee;
 - (B) not permit such Below Market Rental Housing Unit to be occupied by a total number of Occupants less than the total number of bedrooms therein;
 - (C) occupy such Below Market Rental Housing Unit as his or her Principal Residence and not permit any Occupant to occupy such Below Market Rental Housing Unit unless such Below Market Rental Housing Unit is the Occupant’s Principal Residence;

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(D) not permit such Below Market 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 or Lessee; and

(E) be:

- I. a Canadian citizen;
 - II. an individual lawfully admitted into Canada for permanent residency;
 - III. a refugee sponsored by the Government of Canada; or
 - IV. an individual who has applied for refugee status,
- and who, at the start of the tenancy, has resided in British Columbia for the past twelve (12) consecutive months,

or a person who is otherwise deemed to be an Eligible Person by the General Manager of Planning, Urban Design and Sustainability, in their sole discretion;

- (w) **"Floor Space Ratio"** means the figure obtained when the area of the floors of a New Building is divided by the area of the Lands;
- (x) **"General Manager of Planning, Urban Design and Sustainability"** means the chief administrator from time to time of the Planning, Urban Design and Sustainability Department of the City and his or her successors in function and their respective nominees;
- (y) **"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;

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- (ix) rental income from real estate or dividends from stocks or bonds, if the real monthly income is greater than the imputed income from such 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; 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; and
 - (xxi) GST and Income Tax rebates;
- (z) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c. 250;

- (aa) **"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;
- (bb) **"Lease(s)"** means any ground lease granted by the Owner over the Lands or any portion thereof and that requires the Lessee to fulfil all requirements set out in this Agreement in relation thereto;
- (cc) **"Lessee(s)"** means the lessee(s) under any Lease(s);
- (dd) **"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, judgments, 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;
- (ee) **"LTO"** means the land title office for the jurisdiction in which the Lands are situate;
- (ff) **"MST Nations"** has the meaning ascribed to that term in Recital B;
- (gg) **"New Building"** means any new building or structure to be built on the Lands as contemplated by the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (hh) **"Occupancy Permit"** means a permit issued by the City authorizing the use and occupation of any New Building or any portion thereof, at any time following the Effective Date;
- (ii) **"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;
- (jj) **"Owner"** means Canada Lands Company CLC Limited, and all of its assigns, successors and successors in title to the Lands or any part thereof;
- (kk) **"Owner's Personnel"** means any and all of the contractors, subcontractors, employees, agents, licensees, invitees and permittees of the Owner;
- (ll) **"Personal Information Protection Act"** means the *Personal Information Protection Act*, S.B.C. 2003, c.63;
- (mm) **"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;

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- (nn) **"Related Person"** means, where the registered or beneficial owner or Lessee 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;

provided that no member of any of the MST Nations shall be considered a Related Person, and for the purposes of this Agreement each such member shall be deemed to deal with the registered or beneficial owner or Lessee at arm's length.

- (oo) **"Rental Building"** means the New Building containing the Rental Housing on the Lands as contemplated by the CD-1 South Rezoning By-law, and excluding for certainty the two New Buildings on the Lands containing approximately 498 units of market housing as contemplated by the CD-1 South Rezoning By-law;
- (pp) **"Rental Building Parcel"** has the meaning ascribed to that term in Section 7.1(a);
- (qq) **"Rental Housing"** means a Dwelling Unit which is not occupied by the registered or beneficial owner or Lessee of the same or by a Related Person, but which is made available by such owner or Lessee to the general public (subject to Article 2), at arm's length, for use as rental accommodation on a month-to-month basis or longer in accordance with this Agreement, and pursuant to 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, and will not be used as Seniors Supportive or Assisted Housing;
- (rr) **"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;
- (ss) **"Replacement Below Market Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(c) and **"Replacement Below Market Rental Housing Unit"** means any one of such units;
- (tt) **"Replacement Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(c) and **"Replacement Rental Housing Unit"** means any one of such units;
- (uu) **"Residential Tenancy Act"** means the *Residential Tenancy Act* S.B.C. 2002, c. 78;

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- (vv) **"Residential Tenancy Regulation"** means the *Residential Tenancy Regulation*, B.C. Reg. 477/2003;
- (ww) **"Rezoning"** has the meaning ascribed to that term in Recital C;
- (xx) **"Rezoning Lands"** has the meaning ascribed to that term in Recital C;
- (yy) **"Seniors Supportive or Assisted Housing"** has the meaning set out in the Zoning and Development By-law;
- (zz) **"Statement of Below Market Rental Housing Unit Eligibility"** means a notarized statement, prepared by the Owner or Lessee and delivered to the City, that states the following in respect of a Below Market Rental Housing Unit:
 - (i) confirmation that, to the best of the knowledge of the Owner or Lessee, as applicable, based on the most current information available to the Owner or Lessee pursuant to Section 2.1(g), the Tenant of such Below Market Rental Housing Unit is an Eligible Person;
 - (ii) description of all of the actions and procedures that the Owner or Lessee has undertaken to verify that the Tenant of such Below Market Rental Housing Unit is an Eligible Person; and
 - (iii) such other information regarding such Below Market 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;
- (aaa) **"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 Below Market Rental Housing Unit and including the requirements set out in Section 2.1(e)(i)-(v) hereof;
- (bbb) **"Tenant"** means each Eligible Person who is a tenant of a Below Market Rental Housing Unit by way of a Tenancy Agreement;
- (ccc) **"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 Rental Building as initially constructed; and
 - (ii) the date as of which the Rental Building is demolished or substantially destroyed;
- (ddd) **"Vancouver"** has the meaning ascribed to that term in Recital A(2);
- (eee) **"Vancouver Charter"** means the *Vancouver Charter* S.B.C. 1953, c. 55; and

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- (fff) **"Zoning and Development By-law"** means the City's Zoning and Development By-law No. 3575, 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 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.
- (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.

- 1.3 **Acknowledgement of Lease(s).** Notwithstanding anything to the contrary herein contained, the City acknowledges that each New Building is anticipated to be developed for, by and to the benefit of a Lessee and as such, the Owner hereby authorizes each Lessee, as to the portion of the Lands leased by such Lessee, to exercise any rights of the Owner hereunder, in respect of such portion of the Lands, required to be exercised for the performance of the Owner's obligations under this Agreement, as and to the extent applicable to the portion of the Lands leased by such Lessee, and further authorizes the City to work directly with the Lessee(s) in respect of this Agreement. Where a Lessee exercises the rights of the Owner under this Agreement, the Owner hereby agrees that the City is authorized to treat the Lessee as having full authority of the Owner, unless the Owner expressly advises the City otherwise and except with respect to any covenants or agreements that would impose

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financial obligations on the Owner or encumber title to the Lands. The City agrees that the Lessee(s) may perform the Owner's obligations hereunder, as and to the extent applicable to the portion of the Lands leased by each Lessee.

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 Rental Building, that throughout the Term:
- (a) the Lands, the Rental Building and the Rental Housing Units (including the Below Market 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, fit and finish the Rental Building, including the Rental Housing Units (including the Below Market Rental Housing Units) and any required amenities and parking spaces, in accordance with this Agreement, the CD-1 South 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) all of the Dwelling Units in the Rental Building will be used only for the purpose of providing Rental Housing (the "**Rental Housing Units**"), provided that the Rental Housing Units comprising not less than the greater of 7708 square meters/ 82,972 sq. ft. or twenty-five (25) percent of the residential floor area that is counted in the calculation of the Floor Space Ratio of the Rental Building will be used only for the purpose of providing Below Market Rental Housing (the "**Below Market Rental Housing Units**"), all in accordance with the terms of this Agreement, the CD-1 South Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies and if the Rental Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit for the Rental Building, then the Owner will promptly take all steps reasonably necessary to enable it to repair the Rental 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 Rental Housing Units and Below Market Rental Housing Units as the Rental Building formerly contained, which replacement Rental Housing Units and Below Market Rental Housing Units during the remainder of the Term, will also be used only for the purpose of providing Rental Housing (such replacement Rental Housing Units hereinafter referred to as "**Replacement Rental Housing Units**") and Below Market Rental Housing (such replacement Below Market Rental Housing Units hereinafter referred to as "**Replacement Below Market Rental Housing Units**") respectively, in the same proportions 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 Rental Housing Units and Replacement Below Market Rental Housing Units will be subject, for the remaining duration of the Term, to the same use restrictions, respectively, as the Rental Housing Units and the Below Market Rental Housing Units are pursuant to this Agreement, unless the City then otherwise agrees in its absolute and unfettered discretion;

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- (d) not less than:
- (i) 35% of the Rental Housing Units; and
 - (ii) 35% of the Below Market Rental Housing Units;
- will have two or more bedrooms;
- (e) each of the Below Market Rental Housing Units shall not be rented, leased, licenced, used or otherwise permitted to be occupied unless it is rented, leased, licenced, used or occupied by an Eligible Person and except in accordance with the following conditions:
- (i) each Below Market Rental Housing Unit shall be rented only pursuant to a Tenancy Agreement, which Tenancy Agreement shall include a copy of this Agreement;
 - (ii) each Below Market Rental Housing Unit shall be rented for a monthly rent not exceeding the rent permitted for that type of Below Market Rental Housing Unit, established in accordance with Section 2.1(o), as adjusted in accordance with Section 2.1(r);
 - (iii) each Below Market Rental Housing Unit shall be rented only by Eligible Person(s) who is/are occupying such Below Market 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 or Lessee and the Eligible Person for the rental thereof;
 - (iv) each Below Market Rental Housing Unit shall have at least one Occupant per bedroom thereof (and for certainty, each Tenant/Eligible Person will be included in the Occupant count);
 - (v) provided in each case that none of such terms are expressly prohibited under the *Residential Tenancy Act* or are determined by a ruling or decision of any judicial body having jurisdiction to be unenforceable or impermissible, each Tenancy Agreement shall include:
 - (A) a clause requiring the Tenant (Eligible Person) and each permitted Occupant of the respective Below Market Rental Housing Unit to comply with this Agreement;
 - (B) the names of all Occupants of the respective Below Market Rental Housing Unit;
 - (C) a term that is not less than one month;
 - (D) one or more clauses providing that the Tenant (Eligible Person) acknowledges and agrees that, among other terms, the following are material terms of the Tenancy Agreement:

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- I. each 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 as a Tenant or Occupant shall not reside at the Below Market 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 or Lessee;
- III. the Below Market Rental Housing Unit will have at least one Occupant per bedroom thereof (and for certainty, each Tenant/Eligible Person will be included in the Occupant count);
- IV. the Below Market 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 or Lessee;
- V. the Below Market Rental Housing Unit will at all times during the term of the Tenancy Agreement be the Principal Residence of each Tenant (Eligible Person) and the other Occupants in the Tenant's household as specified in the Tenancy Agreement; and
- VI. the Tenant will not assign or sublet the Below Market Rental Housing Unit or assign the Tenancy Agreement in whole or in part, except to an Eligible Person and with the prior written consent of the Owner or Lessee; and

(E) a clause:

- I. wherein the Tenant consents to the collection, use and retention by the Owner or Lessee, and the 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 or Lessee 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 Below Market Rental Housing Unit,

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

- (vi) provided in each case that none of such terms are expressly prohibited under the *Residential Tenancy Act* or are determined by a ruling or decision of any judicial body having jurisdiction to be unenforceable or impermissible, 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

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the Tenant in the respective Below Market 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 thereafter, 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 Below Market Rental Housing Unit to vacate the Below Market 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 or 2.1(e)(v)(D)III, the Owner shall offer another Rental Housing Unit or Below Market Rental Housing Unit for rent to the former Tenant, subject to availability for rental of Rental Housing Units or Below Market Rental Housing Units and eligibility of the former Tenant in respect of other Rental Housing Units or Below Market Rental Housing Units, as applicable;
- (g) in connection with Section 2.1(e), throughout the Term, the Owner shall:
- (i) prior to renting a Below Market Rental Housing Unit to a prospective tenant, or upon the change of any Occupants residing within a Below Market 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, or in the case of a change of Occupants, that the Tenant continues to be an Eligible Person, and in both cases, that there will be at least one Occupant per bedroom for such Below Market Rental Housing Unit upon occupancy; and
 - (ii) not less than once every five (5) years after the date on which a Below Market 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 Tenant continues to be an Eligible Person and that such Below Market Rental Housing Unit continues to have at least one Occupant per bedroom;

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- (h) the Owner 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;
- (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 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 owner, and/or the beneficial interest is sold or otherwise transferred together as a block to the same beneficial owner, as applicable, and subject to Section 10.9;
- (j) except for subdivision of the Lands in accordance with Section 7.1, the Owner will not suffer, cause or permit the Rental Building (or any replacement building(s) on the Lands containing Replacement Rental Housing Units and/or Replacement Below Market Rental Housing Units, 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 Rental Housing Unit in contravention of the covenant in Section 2.1(i), and any subdivision of the Rental Building (or any replacement building(s) on the Lands containing Replacement Rental Housing Units and/or Replacement Below Market Rental Housing Units, 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 Rental Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings in Vancouver, reasonable wear and tear excepted;
- (m) if the Rental 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 Rental Building to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands;
- (o) with respect to the Below Market Rental Housing Units:
 - (i) each Below Market Rental Housing Unit will be rented at rates at or below an amount that is 25% below the private apartment average rents for Vancouver applicable to the respective unit type according to the CMHC Rental Market Survey:
 - (A) for the initial tenancy, at the time when the Occupancy Permit is issued; and

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- (B) for all subsequent tenancies, at the time when the respective tenancy of a Below Market Rental Housing Unit commences;
- (p) the unit numbers, unit type, unit size and proposed rents to be charged by the Owner or Lessee to the first Tenants of each of the Below Market Rental Housing Units in the Rental Building following issuance of the Occupancy Permit will be set out in a Below Market 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 the Occupancy Permit;
- (q) following the issuance of the Occupancy Permit, subject to the terms of this Agreement, including, without limitation, that not less than the greater of 7708 square meters/ 82,972 sq. ft. or twenty-five (25) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the Rental Building will be used only for the purpose of providing Below Market 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 Below Market 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 Rental Housing Unit as a Below Market Rental Housing Unit to another Rental Housing Unit in the Rental Building, which is the same unit type and is equal to or greater in size to the Below Market Rental Housing Unit being substituted, on a one-for-one basis, such that the unit type mix and number of Below Market Rental Housing Units in the Rental Building remain unchanged and the initial rent for the newly assigned Below Market Rental Housing Unit will be established in accordance with Section 2.1(o);
- (r) following the issuance of the Occupancy Permit, neither the Owner or the Lessee shall increase the rents for any of the Below Market 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 if there is a change in tenancy, the initial rent for the new tenancy of a Below Market Rental Housing Unit will be established in accordance with Section 2.1(o)(i). For clarity, the Owner shall not increase the rent for a Below Market Rental Housing Unit in any other circumstance, including but not limited to, any rent increases permitted under the *Residential Tenancy Act* or the *Residential Tenancy Regulation* for eligible capital expenses incurred with respect to the Rental Building or a Below Market Rental Housing Unit; and
- (s) the Owner will not use and will not permit any of the Rental Housing Units to be used as Seniors Supportive or Assisted Housing.

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**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 Rental Building, that:
- (a) the Lands and the Rental Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Development Permit for the Rental Building, and will take no action, directly or indirectly, to compel the issuance of any Development Permit for the Rental Building, until such time as the Owner has confirmed in writing and to the satisfaction of the General Manager of Planning, Urban Design and Sustainability, the rent structure proposed to be charged to the first tenants of the Below Market Rental Housing Units following issuance of the Occupancy Permit for the Rental Building (the parties acknowledge that such rents will be calculated on the then available CMHC Rental Market Survey and will be adjusted at the time of issuance of the Occupancy Permit based on the most recent CMHC Rental Market Survey as set out in the Below Market Rental Housing Rent Roll delivered to the City pursuant to Section 2.1(p)), and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Below Market Rental Housing Units in accordance with this Agreement; and
 - (ii) the City will be under no obligation to issue any Development Permit for the Rental Building 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, except to the extent such Losses are caused by the gross negligence or wrongful intentional acts of the City or the City Personnel.

**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 Rental Building, that:
- (a) the Lands and the Rental Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Building Permit for the Rental Building, and will take no action, directly or indirectly, to compel the issuance of any Building Permit for the Rental Building, until such time as the Owner has confirmed in writing and to the satisfaction of the General Manager of Planning, Urban Design and Sustainability, the rent structure proposed to be charged to the first tenants of the Below Market Rental Housing Units following issuance of the Occupancy Permit for the Rental Building (the parties acknowledge that such rents will be calculated on the then available

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CMHC Rental Market Survey and will be increased at the time of issuance of the Occupancy Permit based on the most recent CMHC Rental Market Survey as set out in the Below Market Rental Housing Rent Roll delivered to the City pursuant to Section 2.1(p)), and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Below Market 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 for the Rental Building 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, except to the extent such Losses are caused by the gross negligence or wrongful intentional acts of the City or the City Personnel.

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 Rental Building, that:

- (a) the Lands and the Rental Building will not be used or occupied except as follows:
 - (i) the Owner will not suffer or permit the occupation of, the Rental Building and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit until such time as the Owner has delivered, to the satisfaction of the General Manager of Planning, Urban Design and Sustainability, a Below Market Rental Housing Rent Roll confirming the rents to be charged to the first tenants of the Below Market Rental Housing Units following issuance of the Occupancy Permit established in accordance with Section 2.1(o) and the unit type mix and size, which rents, unit type and mix shall comply with those applicable to the Below Market Rental Housing Units in accordance with this Agreement and the Development Permit; and
 - (ii) the City will be under no obligation to issue any Occupancy Permit, notwithstanding completion of construction of the Rental 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, except to the extent such Losses are caused by the gross negligence or wrongful intentional acts of the City or the City Personnel.

ARTICLE 6 RECORD KEEPING

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- 6.1 The Owner will keep or cause the Lessee to keep accurate records pertaining to the use, occupancy and rental rates charged of/for the Below Market Rental Housing Units, such records to be to the satisfaction of the General Manager of Planning, Urban Design and Sustainability (provided that the Owner and/or the Lessee is only required to keep records for a particular Tenant for a period of seven (7) years from the date on which such Tenant has vacated a Below Market Rental Housing Unit). The Owner will:
- (a) on each anniversary of the date of issuance of the final Occupancy Permit for any portion of the Rental Building or at the request of the City, provide an updated Below Market Rental Housing Report to the General Manager of Planning, Urban Design and Sustainability, substantially in the form attached hereto as Schedule A, the requirements of which may be updated from time to time by the General Manager of Planning, Urban Design and Sustainability;
 - (b) within ninety (90) days of a written request by the General Manager of Planning, Urban Design and Sustainability, from time to time, notwithstanding that the Owner may have already provided a Below Market Rental Housing Report in the same calendar year, complete and deliver to the City a Statement of Below Market Rental Housing Unit Eligibility in respect of such Below Market Rental Housing Units;
 - (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 SUBDIVISION

7.1 Notwithstanding Section 2.1(j):

- (a) subject to compliance by the Owner with all applicable requirements of the City's Approving Officer and the City's elected Council, this Agreement and all applicable laws and by-laws, the Owner may subdivide the Lands to create a separate legal parcel for the Lands upon which the Rental Building is situate (the "**Rental Building Parcel**") and following such subdivision the Owner may apply to the City for a partial discharge of this Agreement with respect to any legal parcel other than the Rental Building (whereupon the term "Lands" as used in this Agreement will be read as not including such other parcel(s)) provided, that:

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

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

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

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

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

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- (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 8 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, provided that the Owner will not be liable for failing to comply with any obligations set out in this Agreement, or any Losses incurred or sustained by the City or City Personnel, solely relating or arising in relation to any period after which the Owner ceases to be the registered owner of the Lands.

ARTICLE 9 NOTICES

- 9.1 Any notice, approval or request required or permitted to be given under this Agreement will be in writing and may be given by delivering such notice, approval or request to a representative of the party for whom it is intended, either by personal delivery or by mailing such notice, approval or request by prepaid registered mail from any post office in British Columbia and:

- (a) in the case of the Owner, addressed to it at the address shown on title to the Lands, or applicable part thereof,

with a copy to:

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MST Development Corporation
 325 West 4th Avenue
 Vancouver, BC V5Y 1H3

Attention: Chief Executive Officer

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

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;

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

ARTICLE 10 MISCELLANEOUS

- 10.1 Agreement 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.
- 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 Crown grant respecting the Lands;
 - (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of the Rezoning or the Development Permit; and
 - (c) which the Director of Legal Services has determined, in his or 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 or the Lessee 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

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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 or the Lessee, including any error by the Owner or the Lessee 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 the greater of 7708 square meters/ 82,972 square feet or twenty-five (25) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the Rental Building will be used only for the purpose of providing Below Market Rental Housing, as set out in Section 2.1(c) as a result of such termination notice being ineffective and for clarity, the Below Market Rental Housing Unit to which such ineffective termination notice relates shall continue to count towards the aforementioned minimum square footage/percentage of the residential floor areas, for the remainder of the period that such Below Market Rental Housing Unit is rented to the applicable Tenant; and
- (b) the Below Market 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 Below Market Rental Housing Unit is rented to the applicable Tenant.

For certainty regarding any terms, conditions, requirements or other covenants of the Owner that may be expressly prohibited under the *Residential Tenancy Act* or determined by a ruling or decision of any judicial body having jurisdiction to be unenforceable or impermissible, the Owner will not be considered to be in breach hereunder but covenants and agrees to use commercially-reasonable efforts to comply as closely with such terms, conditions, requirements and other covenants as is permitted pursuant to the *Residential Tenancy Act* or the Residential Tenancy Branch and to co-operate with and provide such further assurances to the City in pursuing such compliance to accord with the parties' intention herein.

- 10.4 Enforcement. This Agreement may be enforced by mandatory and prohibitory orders of the court.
- 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

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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 Rental Building or Part Thereof. Subject to Sections 2.1(i) and 2.1(j), prior to the sale or transfer of any legal or beneficial interest (other than the transfer of an interest by way of mortgage, where the mortgagee has first granted the Section 219 Covenants contained herein priority, in form and substance satisfactory to the City, over its mortgage or the mortgage has been registered after the Section 219 Covenants), the Owner of the Lands and the Rental 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, or the mortgage has been registered after the Section 219 Covenants).
- 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 interests in the title to the Lands with the interests in land created hereby;
 - (b) upon execution and delivery of this Agreement and registration thereof, the interests in land created hereby will encumber all legal interests in the title to the Lands;
 - (c) this Agreement will be fully and completely binding upon the Owner in accordance with its terms and the Owner will perform all of its obligations under this Agreement in accordance with its terms; and
 - (d) the foregoing representations, warranties, covenants and agreement will have force and effect notwithstanding any knowledge on the part of the City whether actual or constructive concerning the status of the Owner with regard to the Lands or any other matter whatsoever.
- 10.11 Liability. The parties agree that neither the Owner nor any successor in title to the Lands, will be liable for breaches or non-observance or non-performance of covenants herein occurring as the same relate to any portion of the Lands after it has ceased to be the registered owner of such portion of the Lands, but the Owner, or its successors in title, as

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(Rental and Below Market)

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the case may be, will remain liable after ceasing to be the registered owner of such portion of the Lands for all breaches of and non-observance and non-performance of covenants herein as the same relate to such portion of the Lands that occur prior to the Owner, or any successor in title as the case may be, ceasing to be the registered owner of such portion of 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.
- 10.13 Future Rezoning. The parties agree that if there is a further rezoning of the Lands, or an amendment to the Rezoning, such that City Council confirms that the Owner is no longer required to satisfy the CD-1 South Secured Rental and Below Market Rental Housing Conditions and the conditions of such rezoning or amendment to the Rezoning contemplate discharge of this Agreement, then the City covenants to execute a discharge of the Section 219 Covenants granted herein, provided however that:
- (a) the City will have no obligation to execute such discharge until a written request therefor from the Owner has been received by the City, which request will include the form of discharge, in registrable form;
 - (b) the cost of preparation of such discharge and the cost of registration of same in the LTO will be paid by the Owner; and
 - (c) the City will have a reasonable time within which to execute such discharge and return the same to the Owner for registration.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the Form C - General Instrument - Part 1 which is attached hereto and forms part hereof.

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Housing Agreement and Building Use Covenant
(Rental and Below Market)
4949 - 5255 Heather Street and 657 - 707 West 37th Avenue - Parcel B

**SCHEDULE A
THE REZONING LANDS**

4949-5201 Heather Street

PID 015-991-512; Block 838 (Reference Plan 736) Group 1 NWD Except the South of 300 Feet (See 208823L) District Lot 526;

5255 Heather Street

PID 015-991-466; The South 300 Feet (See 208823L) of Block 838 (Reference Plan 736) District Lot 526 Group 1 NWD; and

657-707 West 37th Avenue

PID 009-958-461; Lot A (Reference Plan 3733) Block 839 District Lot 526 Plan 6431.

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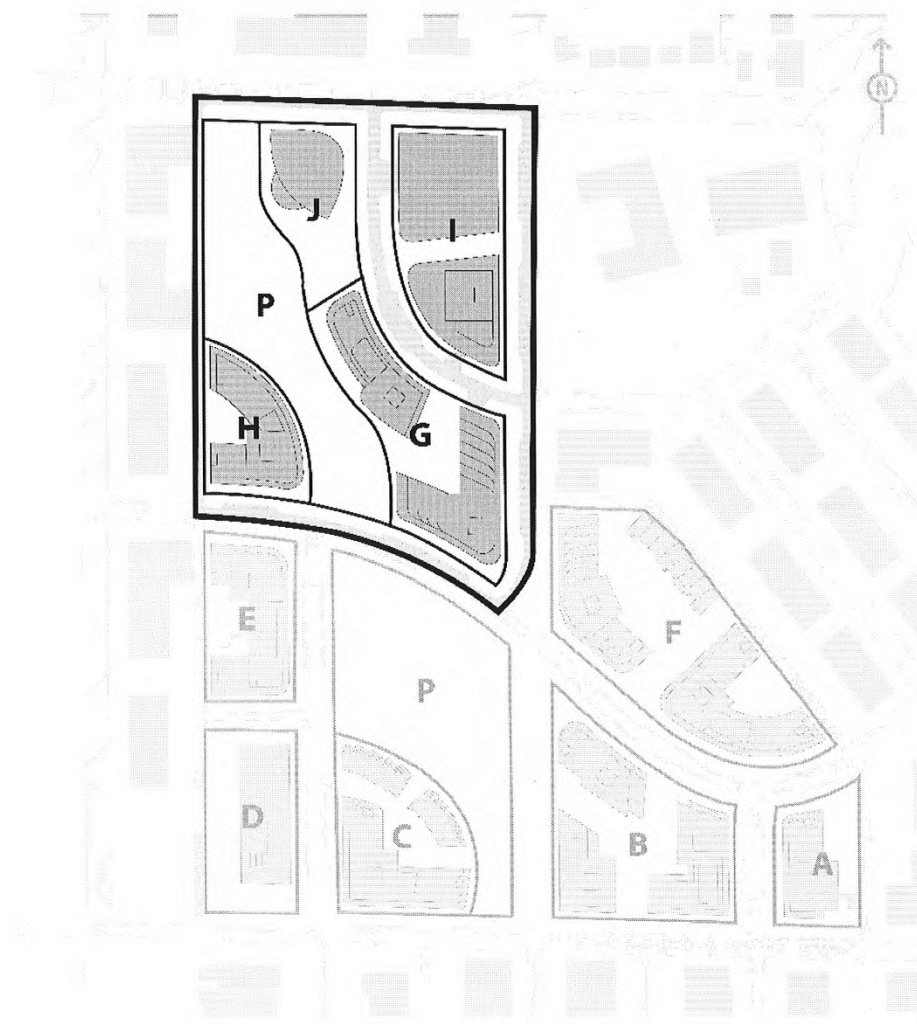
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Housing Agreement and Building Use Covenant
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SCHEDULE B
CD-1 District / Sub-Area Plans

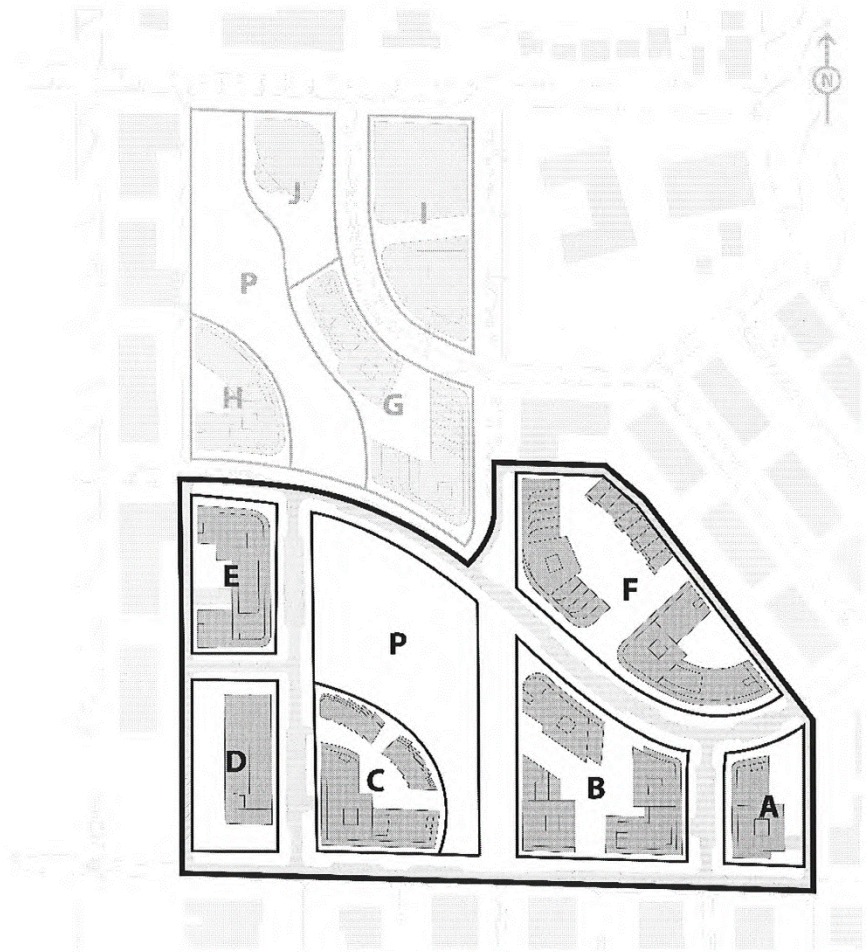
CD-1 North



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CD-1 South

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SCHEDULE C
BELOW MARKET RENTAL HOUSING REPORT

[illegible]

Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099
1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	

**Housing Agreement and Building Use Covenant
(Rental and Below Market)**

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EXPLANATION**Authorization to enter into a Housing Agreement****Re: 4949 – 5255 Heather Street and 657 – 707 West 37th Avenue – Parcel F**

On May 24, 2022, City Council approved in principle a CD-1 By-law for the above noted property subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services, prior to the enactment of the CD-1 By-law.

A Housing Agreement has been accepted and executed by the applicant land owner, 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
November 12, 2024

BY-LAW NO.

**A By-law to enact a Housing Agreement for
4949 – 5255 Heather Street and 657 – 707 West 37th Avenue – Parcel F**

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

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

EPP141535

Lot 5 Block 839 DL 526 NWD Plan EPP141535

in substantially the form and substance of the Housing Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the agreement on behalf of the City, and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.

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

ENACTED by Council this day of November, 2024

Mayor

City Clerk



Land Title Act

Charge

General Instrument – Part 1

1. Application

**Michelle Stewart, Paralegal of Fasken Martineau
DuMoulin LLP
Barristers and Solicitors
2900-550 Burrard Street
Vancouver BC V6C 0A3
6046314975**

LTO Client No. 11565
Matter No. 313958.00004/13625/SAB

2. Description of Land

PID/Plan Number	Legal Description
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EPP141535	LOT 5 BLOCK 839 DL 526 NWD PLAN EPP141535
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3. Nature of Interest

Type	Number	Additional Information
COVENANT		Entire Instrument

4. Terms

Part 2 of this instrument consists of:

(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

CANADA LANDS COMPANY CLC LIMITED, NO.A0047912

6. Transferee(s)

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

7. Additional or Modified Terms



Land Title Act

Charge

General Instrument – Part 1

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

Sarah Batuy
Barrister & Solicitor
Fasken Martineau DuMoulin LLP
2900-550 Burrard Street
Vancouver BC V6C 0A3

(AS TO BOTH SIGNATURES)

Execution Date

YYYY-MM-DD

2024-11-01

Transferor / Transferee / Party Signature(s)

**CANADA LANDS COMPANY CLC
LIMITED**

By their Authorized Signatory

**Name: Deana Grinnell, Executive
Vice President, Real Estate**

**Name: Elisa Campbell, Vice
President, Real Estate West**

Officer Certification

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

Witnessing Officer Signature

Execution Date

YYYY-MM-DD

Transferor / Transferee / Party Signature(s)

CITY OF VANCOUVER

By their Authorized Signatory

Name: _____

Officer Certification

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

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 BELOW MARKET RENTAL HOUSING

4949 - 5255 HEATHER STREET AND 657 - 707 WEST 37TH AVENUE - PARCEL F

WHEREAS:

- A. It is understood and agreed that this Agreement will be read as follows:
- (1) the Transferor, Canada Lands Company CLC Limited, is called the “Owner”;
 - (2) the Transferee, City of Vancouver, is called the “City” or “City of Vancouver” when referring to the corporate entity and “Vancouver” when referring to geographical location;
- B. The Owner is the registered owner of the Lands but all parties recognize and agree that the Lands are being redeveloped in joint venture with the xʷməθkʷəy̓əm (Musqueam Indian Band), Skwxwú7mesh (Squamish Nation), and səliwətaʔ (Tsleil-Waututh Nation) (collectively, the “MST Nations”);
- C. The Owner and MST Nations made an application to rezone the Rezoning Lands more particularly set out in Schedule A (the “Rezoning Lands”) from CD-1 (52A) and CD-1 (80) to two new CD-1 (Comprehensive Development) Districts (CD-1 South and CD-1 North) to permit a multi-phased mixed use development with a combined total floor area of 234,219 sq. m. (2,521,107 sq. ft.) in buildings ranging from 3-to-28 storeys for commercial, residential, community and cultural uses (the “Rezoning”). After a public hearing to consider the Rezoning, the Rezoning application was approved by City Council in principle on May 24, 2022, subject to the fulfilment of certain conditions, as more particularly set out in the public hearing minutes;
- D. The completion of the Rezoning will be undertaken and led by the MST Nations through their wholly owned MST Development Corporation, in collaboration with the Owner, and after enactment of each of the CD-1 South and CD-1 North rezoning by-laws, the Rezoning Lands subject to the enacted by-laws will be transferred to entities owned (directly or indirectly) by the MST Nations, which are anticipated to include future joint-venture partnerships to be determined by the MST Nations, which future joint-venture partnerships would lead the continued redevelopment of such Rezoning Lands;
- E. The project represents a significant milestone and benchmark for the City’s efforts toward Reconciliation. The redevelopment approach for the Rezoning Lands is guided by the following principles:
- (a) Strengthen the relationship with the xʷməθkʷəy̓əm, Skwxwú7mesh, and səliwətaʔ and Indigenous Peoples by acknowledging the truth of residential schools and the impact of loss of land and culture, and support the creation of a unique place that represents the cultural values of the xʷməθkʷəy̓əm, Skwxwú7mesh, and səliwətaʔ Peoples;
 - (b) Recognize the Rezoning Lands as a site of Reconciliation by carefully considering

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- the application of City policies to the Rezoning Lands, including the City's typical approach to heritage and land ownership, and support a strong cultural presence by the replacement of the former RCMP building with a x̄w̄m̄ə̄θ̄k̄w̄əȳ əm̄, S̄k̄w̄x̄w̄ú7mesh, and s̄ə̄l̄il̄w̄ə̄t̄ə̄l̄ self-determined cultural centre;
- (c) Reflect Government-to-Government relationship in decision-making and in establishing ownership and operation of the community amenities to be constructed on the Rezoning Lands; and
 - (d) Support the long-term retention of the Rezoning Lands by the MST Nations for the benefit of future generations through the use of non-standard approaches for community amenities and financial securities;
- F. The Owner and MST Nations have elected to proceed with enactment of the CD-1 South Rezoning By-law ahead of enactment of the CD-1 North Rezoning By-law;
- G. The following conditions of the Rezoning which are required for the enactment of the CD-1 South Rezoning By-law (the "CD-1 South Secured Rental and Below Market Rental Housing Conditions") have not yet been fulfilled in whole or in part:

"Secured Market Rental Housing and Below Market Rental Housing"

- 2.14 *Make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into one or more Housing Agreements and/or Section 219 Covenants to secure a minimum of 373 residential units as secured market rental housing units, located on Parcels B and F combined, for the longer of 60 years or the life of the respective buildings, subject to no-separate-sales covenants and a no-stratification covenants, and such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may require.*

Note to Applicant: This condition will be secured by one or more Housing Agreements to be entered into by the City at by-law enactment pursuant to Section 565.2 of the Vancouver Charter and/or Section 219 Covenants.

- 2.15 *Make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into one or more Housing Agreements and/or Section 219 Covenants to secure a minimum of 33,543 sq. m. (361,059 sq. ft.) of residential floor space, and approximately 373 residential units located on Parcels B and F combined, as secured rental housing, including at least 25 per cent of the residential floor area that is counted in the calculation of the market rental dwelling unit area per the CD-1 By-law (at least 8,385 sq. m. [90,265] sq. ft.) as below-market rental units ("below-market rental units"). The below-market rental units are to be rented at 25% below the CMHC city-wide average market rents, and the remaining units to be secured as market rental units, subject to the conditions set out below for such units, for a term equal to the longer of 60 years and the life of the respective building. The agreement or agreements will include, but not be limited to, the following conditions, and requirements:*

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- (a) *A no separate sales covenant;*
- (b) *A no stratification covenant;*
- (c) *A provision that not [sic] of such units will be rented for less than one month at a time;*
- (d) *A provision that none of such units will be Seniors Supportive or Assisted Housing;*
- (e) *That a rent roll will be provided indicating the agreed initial monthly rents for each below market rental unit at time of the respective occupancy permit application;*
- (f) *That the average initial starting monthly rents for all below market rental housing units in the project will be at or below 25% below the CMHC city-wide average market rent;*
- (g) *That rent increases for the below market rental units will be capped at the Residential Tenancy Act maximum annual allowable increase, as published by the Province of British Columbia, regardless of a change in occupancy;*
- (h) *That the applicant will verify eligibility of new tenants for the units secured at below market rates, based on the following:*
 - i) *For new tenants, annual household income cannot exceed (4) four times the annual rent for the unit (i.e. at least 25% of household income is spent on rent); and*
 - ii) *There should be at least one occupant per bedroom in the unit.*
- (i) *That the applicant will verify the ongoing eligibility of existing tenants in the units secured at below market rates every five (5) years after initial occupancy:*
 - i) *For such tenants, annual household income cannot exceed 5 times the annual rent for the unit (i.e. at least 20% of income is spent on rent); and*
 - ii) *There should be at least one occupant per bedroom in the unit.*
- (j) *On an annual basis, or at the request of the City, the applicant will report to the City of Vancouver on the operation of the below market rental units which will ensure that the City can confirm that the units are being operated as agreed, and will include a rent roll for the below market rental units, and a summary of the results of eligibility testing for these units; and*
- (k) *Such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may require in their sole discretion.”; and*

H. The Owner is entering into this Agreement to satisfy the CD-1 South Secured Rental and Below Market Rental Housing Conditions with respect to the Lands; and

I. The MST Nations, through the future joint-venture partnerships, intend to lease the Lands
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or portions thereof to Lessee(s) pursuant to Lease(s).

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 Rental 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) **“Below Market Rental Housing”** means a portion of the 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(o) of this Agreement (as adjusted in accordance with Section 2.1(r)), are made available for rent only to Eligible Persons in accordance with this Agreement and comply with the Issues Report: Direction for Intensification of Large Sites to Include Moderate Income Rental Housing presented to City Council on July 23, 2019 and incorporated into the Rezoning Policy for Sustainable Large Developments adopted by City Council on July 25, 2018 and subsequently amended on September 15, 2020, January 19, 2021, July 20, 2021, July 25, 2023, October 4, 2023, and April 23, 2024;
- (c) **“Below Market Rental Housing Rent Roll”** means a rent roll report providing information regarding each of the Below Market Rental Housing Units, including the unit number, unit type, unit size and rent;
- (d) **“Below Market Rental Housing Report”** means a notarized annual report prepared by the Owner or Lessee and delivered to the City providing information regarding each of the Below Market Rental Housing Units, including but not limited to the following:
 - (i) unit number for the Below Market 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

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- (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;

- (e) **"Below Market Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(c) and **"Below Market Rental Housing Unit"** means any one of such units;
- (f) **"Building Permit"** means any building permit issued by the City authorizing the construction of a New Building as contemplated by the CD-1 South Rezoning By-law and the Development Permit;
- (g) **"CD-1 North"** means the comprehensive development district anticipated to be comprised of the northern portion of the Rezoning Lands as more particularly shown on the sketch plan attached as Schedule B, and anticipated to contain CD-1 sub-areas G, H, I and J;
- (h) **"CD-1 North Rezoning By-law"** means the by-law enacting the Rezoning for CD-1 North;
- (i) **"CD-1 South"** means the comprehensive development district comprised of the southern portion of the Rezoning Lands as more particularly shown on the sketch plan attached as Schedule B, and containing CD-1 sub-areas A, B, C, D, E and F;
- (j) **"CD-1 South Rezoning By-law"** means the by-law enacting the Rezoning for CD-1 South;
- (k) **"CD-1 South Secured Rental and Below Market Rental Housing Conditions"** has the meaning ascribed to that term in Recital G;
- (l) **"City"** and **"City of Vancouver"** have the meaning ascribed to those terms in Recital A(2);
- (m) **"City Manager"** means the chief administrator from time to time of the City and his or her successors in function and their respective nominees;
- (n) **"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;
- (o) **"CMHC"** means the Canada Mortgage and Housing Corporation;
- (p) **"CMHC Rental Market Survey"** means the then current annual Rental Market Survey conducted by the CMHC for Vancouver or an equivalent publication that is acceptable to the General Manager of Planning, Urban Design and Sustainability;

- (q) **“Development Permit”** means any development permit issued by the City authorizing the development on the Lands or any portion of the Lands contemplated by the CD-1 South Rezoning By-law;
- (r) **“Director of Legal Services”** means the chief administrator from time to time of the Legal Services Department of the City and her or his successors in function and their respective nominees;
- (s) **“Director of Planning”** means the director of planning appointed by the City from time to time and their successors in function and their respective nominees;
- (t) **“Dwelling Unit”** has the meaning set out in the Zoning and Development By-law No. 3575;
- (u) **“Effective Date”** means the date as of which this Agreement has been executed by all parties to it;
- (v) **“Eligible Person”** means a person who:
 - (i) at the beginning of such person’s tenancy of a Below Market Rental Housing Unit, together with all other Occupants of such Below Market Rental Housing Unit, have an aggregate annual household Income that is less than or equal to four (4) times the annual rent of such Below Market Rental Housing Unit established in accordance with Section 2.1(o);
 - (ii) thereafter throughout such person’s tenancy of a Below Market Rental Housing Unit, together with all other Occupants of such Below Market Rental Housing Unit, have an aggregate annual household Income that is less than or equal to five (5) times the annual rent of such Below Market Rental Housing Unit established in accordance with Section 2.1(o), as adjusted in accordance with Section 2.1(r); and
 - (iii) throughout such person’s tenancy of a Below Market Rental Housing Unit, will:
 - (A) not permit such Below Market 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 or Lessee;
 - (B) not permit such Below Market Rental Housing Unit to be occupied by a total number of Occupants less than the total number of bedrooms therein;
 - (C) occupy such Below Market Rental Housing Unit as his or her Principal Residence and not permit any Occupant to occupy such Below Market Rental Housing Unit unless such Below Market Rental Housing Unit is the Occupant’s Principal Residence;

(D) not permit such Below Market 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 or Lessee; and

(E) be:

- I. a Canadian citizen;
 - II. an individual lawfully admitted into Canada for permanent residency;
 - III. a refugee sponsored by the Government of Canada; or
 - IV. an individual who has applied for refugee status,
- and who, at the start of the tenancy, has resided in British Columbia for the past twelve (12) consecutive months,

or a person who is otherwise deemed to be an Eligible Person by the General Manager of Planning, Urban Design and Sustainability, in their sole discretion;

(w) **"Floor Space Ratio"** means the figure obtained when the area of the floors of a New Building is divided by the area of the Lands;

(x) **"General Manager of Planning, Urban Design and Sustainability"** means the chief administrator from time to time of the Planning, Urban Design and Sustainability Department of the City and his or her successors in function and their respective nominees;

(y) **"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 such 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; 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; and
 - (xxi) GST and Income Tax rebates;
- (z) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c. 250;

- (aa) **"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;
- (bb) **"Lease(s)"** means any ground lease granted by the Owner over the Lands or any portion thereof and that requires the Lessee to fulfil all requirements set out in this Agreement in relation thereto;
- (cc) **"Lessee(s)"** means the lessee(s) under any Lease(s);
- (dd) **"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, judgments, 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;
- (ee) **"LTO"** means the land title office for the jurisdiction in which the Lands are situate;
- (ff) **"MST Nations"** has the meaning ascribed to that term in Recital B;
- (gg) **"New Building"** means any new building or structure to be built on the Lands as contemplated by the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (hh) **"Occupancy Permit"** means a permit issued by the City authorizing the use and occupation of any New Building or any portion thereof, at any time following the Effective Date;
- (ii) **"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;
- (jj) **"Owner"** means Canada Lands Company CLC Limited, and all of its assigns, successors and successors in title to the Lands or any part thereof;
- (kk) **"Owner's Personnel"** means any and all of the contractors, subcontractors, employees, agents, licensees, invitees and permittees of the Owner;
- (ll) **"Personal Information Protection Act"** means the *Personal Information Protection Act*, S.B.C. 2003, c.63;
- (mm) **"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;

(nn) **“Related Person”** means, where the registered or beneficial owner or Lessee 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;

provided that no member of any of the MST Nations shall be considered a Related Person, and for the purposes of this Agreement each such member shall be deemed to deal with the registered or beneficial owner or Lessee at arm’s length.

(oo) **“Rental Building”** means the New Building containing the Rental Housing on the Lands as contemplated by the CD-1 South Rezoning By-law, and excluding for certainty the two New Buildings on the Lands containing approximately 498 units of market housing as contemplated by the CD-1 South Rezoning By-law;

(pp) **“Rental Building Parcel”** has the meaning ascribed to that term in Section 7.1(a);

(qq) **“Rental Housing”** means a Dwelling Unit which is not occupied by the registered or beneficial owner or Lessee of the same or by a Related Person, but which is made available by such owner or Lessee to the general public (subject to Article 2), at arm’s length, for use as rental accommodation on a month-to-month basis or longer in accordance with this Agreement, and pursuant to 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, and will not be used as Seniors Supportive or Assisted Housing;

(rr) **“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;

(ss) **“Replacement Below Market Rental Housing Units”** has the meaning ascribed to that term in Section 2.1(c) and **“Replacement Below Market Rental Housing Unit”** means any one of such units;

(tt) **“Replacement Rental Housing Units”** has the meaning ascribed to that term in Section 2.1(c) and **“Replacement Rental Housing Unit”** means any one of such units;

(uu) **“Residential Tenancy Act”** means the *Residential Tenancy Act* S.B.C. 2002, c. 78;

- (vv) **"Residential Tenancy Regulation"** means the *Residential Tenancy Regulation*, B.C. Reg. 477/2003;
- (ww) **"Rezoning"** has the meaning ascribed to that term in Recital C;
- (xx) **"Rezoning Lands"** has the meaning ascribed to that term in Recital C;
- (yy) **"Seniors Supportive or Assisted Housing"** has the meaning set out in the Zoning and Development By-law;
- (zz) **"Statement of Below Market Rental Housing Unit Eligibility"** means a notarized statement, prepared by the Owner or Lessee and delivered to the City, that states the following in respect of a Below Market Rental Housing Unit:
- (i) confirmation that, to the best of the knowledge of the Owner or Lessee, as applicable, based on the most current information available to the Owner or Lessee pursuant to Section 2.1(g), the Tenant of such Below Market Rental Housing Unit is an Eligible Person;
 - (ii) description of all of the actions and procedures that the Owner or Lessee has undertaken to verify that the Tenant of such Below Market Rental Housing Unit is an Eligible Person; and
 - (iii) such other information regarding such Below Market 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;
- (aaa) **"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 Below Market Rental Housing Unit and including the requirements set out in Section 2.1(e)(i)-(v) hereof;
- (bbb) **"Tenant"** means each Eligible Person who is a tenant of a Below Market Rental Housing Unit by way of a Tenancy Agreement;
- (ccc) **"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 Rental Building as initially constructed; and
 - (ii) the date as of which the Rental Building is demolished or substantially destroyed;
- (ddd) **"Vancouver"** has the meaning ascribed to that term in Recital A(2);
- (eee) **"Vancouver Charter"** means the *Vancouver Charter* S.B.C. 1953, c. 55; and

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- (fff) **“Zoning and Development By-law”** means the City’s Zoning and Development By-law No. 3575, 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 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.
- (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.

- 1.3 **Acknowledgement of Lease(s).** Notwithstanding anything to the contrary herein contained, the City acknowledges that each New Building is anticipated to be developed for, by and to the benefit of a Lessee and as such, the Owner hereby authorizes each Lessee, as to the portion of the Lands leased by such Lessee, to exercise any rights of the Owner hereunder, in respect of such portion of the Lands, required to be exercised for the performance of the Owner’s obligations under this Agreement, as and to the extent applicable to the portion of the Lands leased by such Lessee, and further authorizes the City to work directly with the Lessee(s) in respect of this Agreement. Where a Lessee exercises the rights of the Owner under this Agreement, the Owner hereby agrees that the City is authorized to treat the Lessee as having full authority of the Owner, unless the Owner expressly advises the City otherwise and except with respect to any covenants or agreements that would impose

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financial obligations on the Owner or encumber title to the Lands. The City agrees that the Lessee(s) may perform the Owner's obligations hereunder, as and to the extent applicable to the portion of the Lands leased by each Lessee.

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 Rental Building, that throughout the Term:
- (a) the Lands, the Rental Building and the Rental Housing Units (including the Below Market 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, fit and finish the Rental Building, including the Rental Housing Units (including the Below Market Rental Housing Units) and any required amenities and parking spaces, in accordance with this Agreement, the CD-1 South 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) all of the Dwelling Units in the Rental Building will be used only for the purpose of providing Rental Housing (the "**Rental Housing Units**"), provided that the Rental Housing Units comprising not less than the greater of 678 square meters/7,293 sq. ft. or twenty-five (25) percent of the residential floor area that is counted in the calculation of the Floor Space Ratio of the Rental Building will be used only for the purpose of providing Below Market Rental Housing (the "**Below Market Rental Housing Units**"), all in accordance with the terms of this Agreement, the CD-1 South Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies and if the Rental Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit for the Rental Building, then the Owner will promptly take all steps reasonably necessary to enable it to repair the Rental 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 Rental Housing Units and Below Market Rental Housing Units as the Rental Building formerly contained, which replacement Rental Housing Units and Below Market Rental Housing Units during the remainder of the Term, will also be used only for the purpose of providing Rental Housing (such replacement Rental Housing Units hereinafter referred to as "**Replacement Rental Housing Units**") and Below Market Rental Housing (such replacement Below Market Rental Housing Units hereinafter referred to as "**Replacement Below Market Rental Housing Units**") respectively, in the same proportions 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 Rental Housing Units and Replacement Below Market Rental Housing Units will be subject, for the remaining duration of the Term, to the same use restrictions, respectively, as the Rental Housing Units and the Below Market Rental Housing Units are pursuant to this Agreement, unless the City then otherwise agrees in its absolute and unfettered discretion;

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- (d) not less than:
 - (i) 35% of the Rental Housing Units; and
 - (ii) 35% of the Below Market Rental Housing Units;
 will have two or more bedrooms;
- (e) each of the Below Market Rental Housing Units shall not be rented, leased, licenced, used or otherwise permitted to be occupied unless it is rented, leased, licenced, used or occupied by an Eligible Person and except in accordance with the following conditions:
 - (i) each Below Market Rental Housing Unit shall be rented only pursuant to a Tenancy Agreement, which Tenancy Agreement shall include a copy of this Agreement;
 - (ii) each Below Market Rental Housing Unit shall be rented for a monthly rent not exceeding the rent permitted for that type of Below Market Rental Housing Unit, established in accordance with Section 2.1(o), as adjusted in accordance with Section 2.1(r);
 - (iii) each Below Market Rental Housing Unit shall be rented only by Eligible Person(s) who is/are occupying such Below Market 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 or Lessee and the Eligible Person for the rental thereof;
 - (iv) each Below Market Rental Housing Unit shall have at least one Occupant per bedroom thereof (and for certainty, each Tenant/Eligible Person will be included in the Occupant count);
 - (v) provided in each case that none of such terms are expressly prohibited under the *Residential Tenancy Act* or are determined by a ruling or decision of any judicial body having jurisdiction to be unenforceable or impermissible, each Tenancy Agreement shall include:
 - (A) a clause requiring the Tenant (Eligible Person) and each permitted Occupant of the respective Below Market Rental Housing Unit to comply with this Agreement;
 - (B) the names of all Occupants of the respective Below Market Rental Housing Unit;
 - (C) a term that is not less than one month;
 - (D) one or more clauses providing that the Tenant (Eligible Person) acknowledges and agrees that, among other terms, the following are material terms of the Tenancy Agreement:

- I. each 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 as a Tenant or Occupant shall not reside at the Below Market 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 or Lessee;
 - III. the Below Market Rental Housing Unit will have at least one Occupant per bedroom thereof (and for certainty, each Tenant/Eligible Person will be included in the Occupant count);
 - IV. the Below Market 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 or Lessee;
 - V. the Below Market Rental Housing Unit will at all times during the term of the Tenancy Agreement be the Principal Residence of each Tenant (Eligible Person) and the other Occupants in the Tenant's household as specified in the Tenancy Agreement; and
 - VI. the Tenant will not assign or sublet the Below Market Rental Housing Unit or assign the Tenancy Agreement in whole or in part, except to an Eligible Person and with the prior written consent of the Owner or Lessee; and
- (E) a clause:
- I. wherein the Tenant consents to the collection, use and retention by the Owner or Lessee, and the 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 or Lessee 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 Below Market Rental Housing Unit,

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

- (vi) provided in each case that none of such terms are expressly prohibited under the *Residential Tenancy Act* or are determined by a ruling or decision of any judicial body having jurisdiction to be unenforceable or impermissible, 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

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the Tenant in the respective Below Market 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 thereafter, 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 Below Market Rental Housing Unit to vacate the Below Market 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 or 2.1(e)(v)(D)III, the Owner shall offer another Rental Housing Unit or Below Market Rental Housing Unit for rent to the former Tenant, subject to availability for rental of Rental Housing Units or Below Market Rental Housing Units and eligibility of the former Tenant in respect of other Rental Housing Units or Below Market Rental Housing Units, as applicable;
- (g) in connection with Section 2.1(e), throughout the Term, the Owner shall:
- (i) prior to renting a Below Market Rental Housing Unit to a prospective tenant, or upon the change of any Occupants residing within a Below Market 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, or in the case of a change of Occupants, that the Tenant continues to be an Eligible Person, and in both cases, that there will be at least one Occupant per bedroom for such Below Market Rental Housing Unit upon occupancy; and
 - (ii) not less than once every five (5) years after the date on which a Below Market 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 Tenant continues to be an Eligible Person and that such Below Market 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 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 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 owner, and/or the beneficial interest is sold or otherwise transferred together as a block to the same beneficial owner, as applicable, and subject to Section 10.9;
- (j) except for subdivision of the Lands in accordance with Section 7.1, the Owner will not suffer, cause or permit the Rental Building (or any replacement building(s) on the Lands containing Replacement Rental Housing Units and/or Replacement Below Market Rental Housing Units, 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 Rental Housing Unit in contravention of the covenant in Section 2.1(i), and any subdivision of the Rental Building (or any replacement building(s) on the Lands containing Replacement Rental Housing Units and/or Replacement Below Market Rental Housing Units, 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 Rental Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings in Vancouver, reasonable wear and tear excepted;
- (m) if the Rental 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 Rental Building to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands;
- (o) with respect to the Below Market Rental Housing Units:
 - (i) each Below Market Rental Housing Unit will be rented at rates at or below an amount that is 25% below the private apartment average rents for Vancouver applicable to the respective unit type according to the CMHC Rental Market Survey:
 - (A) for the initial tenancy, at the time when the Occupancy Permit is issued; and

- (B) for all subsequent tenancies, at the time when the respective tenancy of a Below Market Rental Housing Unit commences;
- (p) the unit numbers, unit type, unit size and proposed rents to be charged by the Owner or Lessee to the first Tenants of each of the Below Market Rental Housing Units in the Rental Building following issuance of the Occupancy Permit will be set out in a Below Market 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 the Occupancy Permit;
- (q) following the issuance of the Occupancy Permit, subject to the terms of this Agreement, including, without limitation, that not less than the greater of 678 square meters/7,293 sq. ft. or twenty-five (25) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the Rental Building will be used only for the purpose of providing Below Market 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 Below Market 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 Rental Housing Unit as a Below Market Rental Housing Unit to another Rental Housing Unit in the Rental Building, which is the same unit type and is equal to or greater in size to the Below Market Rental Housing Unit being substituted, on a one-for-one basis, such that the unit type mix and number of Below Market Rental Housing Units in the Rental Building remain unchanged and the initial rent for the newly assigned Below Market Rental Housing Unit will be established in accordance with Section 2.1(o);
- (r) following the issuance of the Occupancy Permit, neither the Owner or the Lessee shall increase the rents for any of the Below Market 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 if there is a change in tenancy, the initial rent for the new tenancy of a Below Market Rental Housing Unit will be established in accordance with Section 2.1(o)(i). For clarity, the Owner shall not increase the rent for a Below Market Rental Housing Unit in any other circumstance, including but not limited to, any rent increases permitted under the *Residential Tenancy Act* or the *Residential Tenancy Regulation* for eligible capital expenses incurred with respect to the Rental Building or a Below Market Rental Housing Unit; and
- (s) the Owner will not use and will not permit any of the Rental Housing Units to be used as Seniors Supportive or Assisted Housing.

**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 Rental Building, that:

- (a) the Lands and the Rental Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Development Permit for the Rental Building, and will take no action, directly or indirectly, to compel the issuance of any Development Permit for the Rental Building, until such time as the Owner has confirmed in writing and to the satisfaction of the General Manager of Planning, Urban Design and Sustainability, the rent structure proposed to be charged to the first tenants of the Below Market Rental Housing Units following issuance of the Occupancy Permit for the Rental Building (the parties acknowledge that such rents will be calculated on the then available CMHC Rental Market Survey and will be adjusted at the time of issuance of the Occupancy Permit based on the most recent CMHC Rental Market Survey as set out in the Below Market Rental Housing Rent Roll delivered to the City pursuant to Section 2.1(p)), and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Below Market Rental Housing Units in accordance with this Agreement; and
 - (ii) the City will be under no obligation to issue any Development Permit for the Rental Building 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, except to the extent such Losses are caused by the gross negligence or wrongful intentional acts of the City or the City Personnel.

**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 Rental Building, that:

- (a) the Lands and the Rental Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Building Permit for the Rental Building, and will take no action, directly or indirectly, to compel the issuance of any Building Permit for the Rental Building, until such time as the Owner has confirmed in writing and to the satisfaction of the General Manager of Planning, Urban Design and Sustainability, the rent structure proposed to be charged to the first tenants of the Below Market Rental Housing Units following issuance of the Occupancy Permit for the Rental Building (the parties acknowledge that such rents will be calculated on the then available

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CMHC Rental Market Survey and will be increased at the time of issuance of the Occupancy Permit based on the most recent CMHC Rental Market Survey as set out in the Below Market Rental Housing Rent Roll delivered to the City pursuant to Section 2.1(p)), and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Below Market 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 for the Rental Building 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, except to the extent such Losses are caused by the gross negligence or wrongful intentional acts of the City or the City Personnel.

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 Rental Building, that:

- (a) the Lands and the Rental Building will not be used or occupied except as follows:
 - (i) the Owner will not suffer or permit the occupation of, the Rental Building and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit until such time as the Owner has delivered, to the satisfaction of the General Manager of Planning, Urban Design and Sustainability, a Below Market Rental Housing Rent Roll confirming the rents to be charged to the first tenants of the Below Market Rental Housing Units following issuance of the Occupancy Permit established in accordance with Section 2.1(o) and the unit type mix and size, which rents, unit type and mix shall comply with those applicable to the Below Market Rental Housing Units in accordance with this Agreement and the Development Permit; and
 - (ii) the City will be under no obligation to issue any Occupancy Permit, notwithstanding completion of construction of the Rental 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, except to the extent such Losses are caused by the gross negligence or wrongful intentional acts of the City or the City Personnel.

ARTICLE 6 RECORD KEEPING

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- 6.1 The Owner will keep or cause the Lessee to keep accurate records pertaining to the use, occupancy and rental rates charged of/for the Below Market Rental Housing Units, such records to be to the satisfaction of the General Manager of Planning, Urban Design and Sustainability (provided that the Owner and/or the Lessee is only required to keep records for a particular Tenant for a period of seven (7) years from the date on which such Tenant has vacated a Below Market Rental Housing Unit). The Owner will:
- (a) on each anniversary of the date of issuance of the final Occupancy Permit for any portion of the Rental Building or at the request of the City, provide an updated Below Market Rental Housing Report to the General Manager of Planning, Urban Design and Sustainability, substantially in the form attached hereto as Schedule A, the requirements of which may be updated from time to time by the General Manager of Planning, Urban Design and Sustainability;
 - (b) within ninety (90) days of a written request by the General Manager of Planning, Urban Design and Sustainability, from time to time, notwithstanding that the Owner may have already provided a Below Market Rental Housing Report in the same calendar year, complete and deliver to the City a Statement of Below Market Rental Housing Unit Eligibility in respect of such Below Market Rental Housing Units;
 - (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 SUBDIVISION

- 7.1 Notwithstanding Section 2.1(j):
- (a) subject to compliance by the Owner with all applicable requirements of the City's Approving Officer and the City's elected Council, this Agreement and all applicable laws and by-laws, the Owner may subdivide the Lands to create a separate legal parcel for the Lands upon which the Rental Building is situate (the "**Rental Building Parcel**") and following such subdivision the Owner may apply to the City for a partial discharge of this Agreement with respect to any legal parcel other than the Rental Building (whereupon the term "Lands" as used in this Agreement will be read as not including such other parcel(s)) provided, that:

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- (i) the Director of Legal Services is satisfied that such discharge will not unreasonably alter, restrict or limit the City's rights and the Owner's agreements and obligations in respect of Rental Building or in respect of the Rental Building Parcel pursuant to this Agreement;
- (ii) any such discharge will be in form and substance acceptable to the Director of Legal Services and will be prepared by the Owner at its cost;
- (iii) the City will have a reasonable amount of time to execute and return any such discharge; and
- (iv) the preparation and registration of any such discharge will be without cost to the City.

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

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

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

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

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

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- (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 8 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, provided that the Owner will not be liable for failing to comply with any obligations set out in this Agreement, or any Losses incurred or sustained by the City or City Personnel, solely relating or arising in relation to any period after which the Owner ceases to be the registered owner of the Lands.

ARTICLE 9 NOTICES

- 9.1 Any notice, approval or request required or permitted to be given under this Agreement will be in writing and may be given by delivering such notice, approval or request to a representative of the party for whom it is intended, either by personal delivery or by mailing such notice, approval or request by prepaid registered mail from any post office in British Columbia and:

- (a) in the case of the Owner, addressed to it at the address shown on title to the Lands, or applicable part thereof,

with a copy to:

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MST Development Corporation
325 West 4th Avenue
Vancouver, BC V5Y 1H3

Attention: Chief Executive Officer

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

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;

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

ARTICLE 10 MISCELLANEOUS

- 10.1 Agreement 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.
- 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 Crown grant respecting the Lands;
 - (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of the Rezoning or the Development Permit; and
 - (c) which the Director of Legal Services has determined, in his or 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 or the Lessee 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

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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 or the Lessee, including any error by the Owner or the Lessee 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 the greater of 678 square meters/7,293 square feet or twenty-five (25) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the Rental Building will be used only for the purpose of providing Below Market Rental Housing, as set out in Section 2.1(c) as a result of such termination notice being ineffective and for clarity, the Below Market Rental Housing Unit to which such ineffective termination notice relates shall continue to count towards the aforementioned minimum square footage/percentage of the residential floor areas, for the remainder of the period that such Below Market Rental Housing Unit is rented to the applicable Tenant; and
- (b) the Below Market 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 Below Market Rental Housing Unit is rented to the applicable Tenant.

For certainty regarding any terms, conditions, requirements or other covenants of the Owner that may be expressly prohibited under the *Residential Tenancy Act* or determined by a ruling or decision of any judicial body having jurisdiction to be unenforceable or impermissible, the Owner will not be considered to be in breach hereunder but covenants and agrees to use commercially-reasonable efforts to comply as closely with such terms, conditions, requirements and other covenants as is permitted pursuant to the *Residential Tenancy Act* or the Residential Tenancy Branch and to co-operate with and provide such further assurances to the City in pursuing such compliance to accord with the parties' intention herein.

- 10.4 Enforcement. This Agreement may be enforced by mandatory and prohibitory orders of the court.
- 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

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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 Rental Building or Part Thereof. Subject to Sections 2.1(i) and 2.1(j), prior to the sale or transfer of any legal or beneficial interest (other than the transfer of an interest by way of mortgage, where the mortgagee has first granted the Section 219 Covenants contained herein priority, in form and substance satisfactory to the City, over its mortgage or the mortgage has been registered after the Section 219 Covenants), the Owner of the Lands and the Rental 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, or the mortgage has been registered after the Section 219 Covenants).
- 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 interests in the title to the Lands with the interests in land created hereby;
 - (b) upon execution and delivery of this Agreement and registration thereof, the interests in land created hereby will encumber all legal interests in the title to the Lands;
 - (c) this Agreement will be fully and completely binding upon the Owner in accordance with its terms and the Owner will perform all of its obligations under this Agreement in accordance with its terms; and
 - (d) the foregoing representations, warranties, covenants and agreement will have force and effect notwithstanding any knowledge on the part of the City whether actual or constructive concerning the status of the Owner with regard to the Lands or any other matter whatsoever.
- 10.11 Liability. The parties agree that neither the Owner nor any successor in title to the Lands, will be liable for breaches or non-observance or non-performance of covenants herein occurring as the same relate to any portion of the Lands after it has ceased to be the registered owner of such portion of the Lands, but the Owner, or its successors in title, as

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the case may be, will remain liable after ceasing to be the registered owner of such portion of the Lands for all breaches of and non-observance and non-performance of covenants herein as the same relate to such portion of the Lands that occur prior to the Owner, or any successor in title as the case may be, ceasing to be the registered owner of such portion of 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.
- 10.13 Future Rezoning. The parties agree that if there is a further rezoning of the Lands, or an amendment to the Rezoning, such that City Council confirms that the Owner is no longer required to satisfy the CD-1 South Secured Rental and Below Market Rental Housing Conditions and the conditions of such rezoning or amendment to the Rezoning contemplate discharge of this Agreement, then the City covenants to execute a discharge of the Section 219 Covenants granted herein, provided however that:
- (a) the City will have no obligation to execute such discharge until a written request therefor from the Owner has been received by the City, which request will include the form of discharge, in registrable form;
 - (b) the cost of preparation of such discharge and the cost of registration of same in the LTO will be paid by the Owner; and
 - (c) the City will have a reasonable time within which to execute such discharge and return the same to the Owner for registration.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the Form C - General Instrument - Part 1 which is attached hereto and forms part hereof.

{01952284v8}

313958.00004/307943160.9

Housing Agreement and Building Use Covenant
(Rental and Below Market)

4949 - 5255 Heather Street and 657 - 707 West 37th Avenue - Parcel F

**SCHEDULE A
THE REZONING LANDS**

4949-5201 Heather Street

PID 015-991-512; Block 838 (Reference Plan 736) Group 1 NWD Except the South of 300 Feet (See 208823L) District Lot 526;

5255 Heather Street

PID 015-991-466; The South 300 Feet (See 208823L) of Block 838 (Reference Plan 736) District Lot 526 Group 1 NWD; and

657-707 West 37th Avenue

PID 009-958-461; Lot A (Reference Plan 3733) Block 839 District Lot 526 Plan 6431.

{01952284v8}

313958.00004/307943160.9

Housing Agreement and Building Use Covenant
(Rental and Below Market)

4949 - 5255 Heather Street and 657 - 707 West 37th Avenue - Parcel F

SCHEDULE B
CD-1 District / Sub-Area Plans

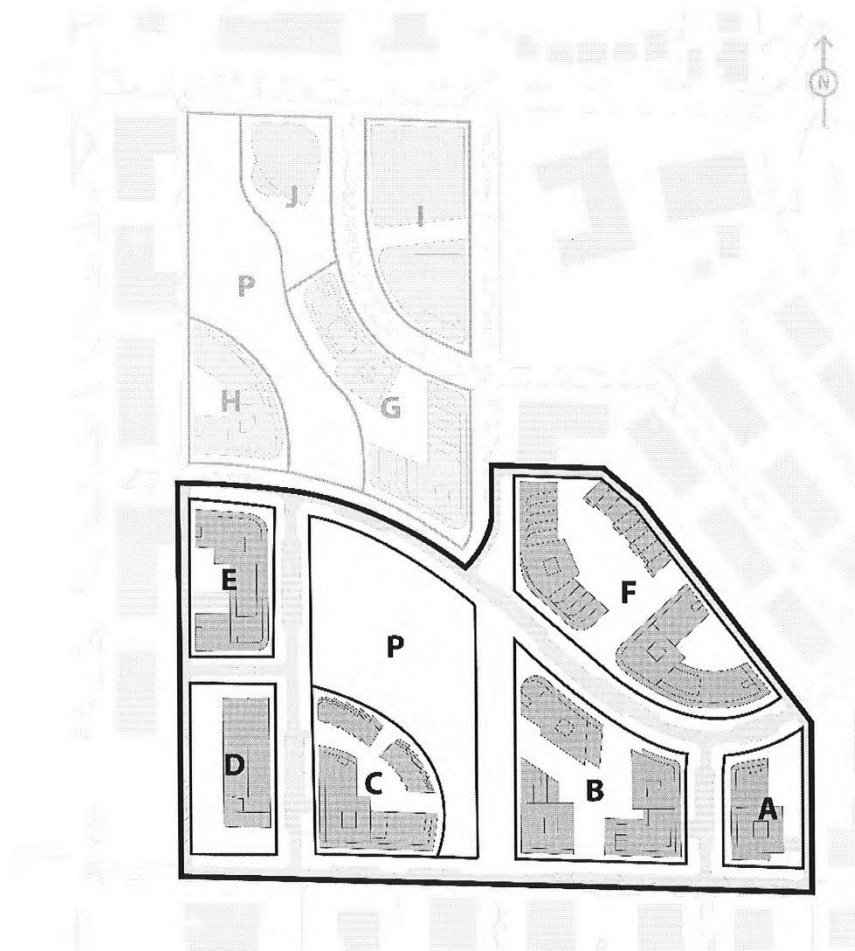
CD-1 North



{01952284v8}

313958.00004/307943160.9

Housing Agreement and Building Use Covenant
(Rental and Below Market)
4949 - 5255 Heather Street and 657 - 707 West 37th Avenue - Parcel F

CD-1 South

{01952284v8}

313958.00004/307943160.9

Housing Agreement and Building Use Covenant
(Rental and Below Market)

4949 - 5255 Heather Street and 657 - 707 West 37th Avenue - Parcel F

[illegible]

{01952284v8}

**Housing Agreement and Building Use Covenant
(Rental and Below Market)**

4949 - 5255 Heather Street and 657 - 707 West 37th Avenue - Parcel F

313958.00004/307943160.9

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 314 – 328 West Hastings Street**

After the public hearing on June 29, 2023, Council approved in principle the land owner's application to rezone the above noted property from DD (Downtown) to CD-1 (Comprehensive Development) District, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant, and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services
November 12, 2024

BY-LAW NO.

A By-law to enact a Housing Agreement for 314 – 328 West Hastings Street

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

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

004-753-241 Lot 5 Block 26 District Lot 541 Plan 210

015-501-973 Lot 6 Block 26 District Lot 541 Plan 210

002-542-129 Lot 7 Block 26 District Lot 541 Plan 210

002-542-137 Lot 8 Block 26 District Lot 541 Plan 210

which lands will be subject to a consolidation yielding a parcel with a legal description of Lot A Block 26 District Lot 541 Group 1 New Westminster District Plan EPP137628 in substantially the form and substance of the Housing Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the agreement on behalf of the City, and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.

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

ENACTED by Council this day of , 2024

Mayor

City Clerk



Land Title Act

Charge

General Instrument – Part 1

1. Application

Kimberly L. Grant
1818 - 701 West Georgia Street
Vancouver BC V7Y 1C6
6046624969

2. Description of Land

PID/Plan Number Legal Description

EPP137628

LOT A BLOCK 26 DISTRICT LOT 541 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP137628

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Entire Instrument
PRIORITY AGREEMENT		Page 15

4. Terms

Part 2 of this instrument consists of:

(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

PR 328 HASTINGS HOLDINGS LTD., NO.BC1478339

ROYNAT INC., NO.A0010877, AS TO PRIORITY ONLY

6. Transferee(s)

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

7. Additional or Modified Terms



Land Title Act
Charge
General Instrument – Part 1


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

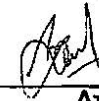
Transferor / Transferee / Party Signature(s)



Kimberly L. Grant
Barrister & Solicitor
1818 - 701 West Georgia Street
Vancouver BC V7Y 1C6

YYYY-MM-DD
2024-10-31

PR 328 HASTINGS HOLDINGS LTD.
By their Authorized Signatory



Azim Jamal
President


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

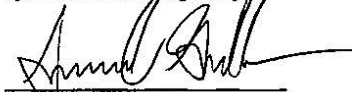
Transferor / Transferee / Party Signature(s)



Scott McInnes
Barrister & Solicitor
Suite 208, 478 Bernard Avenue
Kelowna, B.C. V1Y 6N7

YYYY-MM-DD
2024-11-04

Roynat Inc.
By their Authorized Signatory



Derrick Gillissie
Director

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

City of Vancouver

By their Authorized Signatory

Officer Certification

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

Electronic Signature

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

TERMS OF INSTRUMENT - PART 2
HOUSING AGREEMENT AND BUILDING USE COVENANT
RENTAL HOUSING

314 - 328 WEST HASTINGS STREET

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- I. the Transferor, **PR 328 HASTINGS HOLDINGS LTD.**, is called the “**Owner**”, as more particularly defined in Section 1.1(q); and
 - II. the Transferee, **CITY OF VANCOUVER**, is called the “**City**” or the “**City of Vancouver**” when referring to corporate entity continued under the *Vancouver Charter*, and “**Vancouver**” when referring to geographic location;
- B. The Owner is the registered owner of the Lands;
- C. The Owner made an application to rezone the Lands from DD (Downtown) District to CD-1 (Comprehensive Development) District (the “**Rezoning**”) to permit the development of a 12-storey, mixed-use building containing secured market rental units, with at-grade commercial uses and, after a public hearing to consider the rezoning application, the rezoning application was approved by City Council in principle, subject to, among other things, fulfilment of the following condition prior to enactment of the rezoning by-law (the “**Rezoning By-law**”):
- “2.7 Make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement and a Section 219 Covenant to secure all residential units as secured market rental housing units, excluding Seniors Supportive or Assisted Housing, pursuant to the City’s Downtown Eastside Plan, for a term equal to the longer of 60 years or the life of the building, subject to a no-separate-sales covenant and a no-stratification covenant, and such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may require. Note to Applicant: This condition will be secured by a Housing Agreement to be entered into by the City at by-law enactment pursuant to Section 565.2 of the Vancouver Charter and a Section 219 Covenant.”, and*
- D. The Owner is entering into this Agreement to satisfy the foregoing conditions.

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

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

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

- (a) **“Agreement”** means this housing agreement and building use covenant, including the foregoing recitals and all schedules hereto;
- (b) **“Building Permit”** means any building permit issued by the City authorizing the building of a New Building as contemplated by the Development Permit;
- (c) **“City”** and **“City of Vancouver”** have the meaning ascribed to those terms in Recital A(ii);
- (d) **“City Manager”** means the chief administrator from time to time of the City and her successors in function and their respective nominees;
- (e) **“City Personnel”** means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (f) **“Development”** means the development on the Lands described in Recital C and approved by a Development Permit;
- (g) **“Development Permit”** means any development permit issued by the City authorizing the development of any portion of the Lands contemplated by the Rezoning By-law;
- (h) **“Director of Legal Services”** means the chief administrator from time to time of the City’s Legal Services Department and her/his successors in function and their respective nominees;
- (i) **“Dwelling Unit”** means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (j) **“Effective Date”** means the date as of which this Agreement has been executed by all parties to it;
- (k) **“General Manager of Planning, Urban Design and Sustainability”** means the chief administrator from time to time of the City’s Planning, Urban Design and Sustainability Department and her/his successors in function and their respective nominees;
- (l) **“Land Title Act”** means the *Land Title Act*, R.S.B.C. 1996, c. 250, as may be amended or replaced from time to time;
- (m) **“Lands”** means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the General Instrument - Part 1, and includes any parcels into which such land is consolidated or further subdivided;

- (n) **“Losses”** means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, judgements, builders liens, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (o) **“New Building”** means any new building or structure to be built on the Lands and any building or structure on the Lands being renovated, upgraded or refurbished as contemplated by any Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by any Development Permit;
- (p) **“Occupancy Permit”** means a permit issued by the City authorizing the use and occupation of any New Building, development or partial development on the Lands issued after the Effective Date;
- (q) **“Owner”** means the registered owner of the Lands as of the Effective Date, namely PR 328 HASTINGS HOLDINGS LTD., and its successors and permitted assigns;
- (r) **“Related Person”** means, where the registered or beneficial owner of the Rental Housing Units is:
 - (i) a corporation (as that term is defined in the *Business Corporations Act*, S.B.C. 2002, c. 57), then a Related Person is:
 - (A) an officer, director or shareholder of such corporation or of another entity which is a shareholder of such corporation; or
 - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder referred to in paragraph (A); and
 - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (s) **“Rental Housing”** means a Dwelling Unit which is not occupied by the registered or beneficial owner of the same or by a Related Person, but which is made available by such owner to the general public, at arm’s length, for use as rental accommodation on a month-to-month basis or longer in accordance with this Agreement, reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto, including, without limitation, residential tenancy and human rights legislation in British Columbia;
- (t) **“Rental Housing Units”** means all of the new residential units of Rental Housing to be contained within the New Building upon its completion, as part of the Development, which units will comply with the terms in this Agreement and the Development Permit applicable to the same, and **“Rental Housing Unit”** means any one of them;
- (u) **“Replacement Rental Housing Unit”** has the meaning ascribed to that term in Section 2.1(c) and **“Replacement Rental Housing Units”** means all of such units;
- (v) **“Residential Tenancy Act”** means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, as may be amended or replaced from time to time;

- (w) **“Rezoning”** means the rezoning of the Lands as described in Recital C;
- (x) **“Rezoning By-law”** has the meaning ascribed to it in Recital C;
- (y) **“Term”** means the term of this Agreement, which will commence on the Effective Date and will end on the later of:
 - (i) the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building; and
 - (ii) the date as of which the New Building is demolished or substantially destroyed;
- (z) **“Vancouver”** has the meaning ascribed to that term in Recital A(ii); and
- (aa) **“Vancouver Charter”** means the *Vancouver Charter*, S.B.C. 1953, c. 55, as may be amended or replaced from time to time.

1.2 Interpretation. In this Agreement:

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

observing or performing any obligation, such time will be local Vancouver, British Columbia time.

ARTICLE 2 RESTRICTIONS ON USE OF LANDS AND SUBDIVISION

2.1 **Use of Lands.** The Owner covenants and agrees with the City, in respect of the use of the Lands and the construction and use of the New Building, that:

- (a) throughout the Term, the Lands and the New Building will not be used in any way that is inconsistent with the terms of this Agreement;
- (b) it will construct, fit and finish, at its sole cost and expense, the New Building containing such number of Rental Housing Units, in accordance with this Agreement, the Development Permit, the Building Permit and all applicable City by-laws and policies, all to the satisfaction of the City;
- (c) when the New Building is completed and an Occupancy Permit has been issued and thereafter throughout the Term, all of the Rental Housing Units in the New Building will be used only for the purpose of providing Rental Housing in accordance with the terms of this Agreement, and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the Final Occupancy permit for the New Building, then then it will promptly take all steps reasonably necessary to enable it to repair the New Building or build a replacement building or buildings on the Lands, which repaired or replacement building(s) on the Lands (together with any remaining undestroyed or undemolished building) will also contain not less than the same number of 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 and which Replacement Rental Housing Units will be subject, for the remaining duration of the Term, to the same use restriction as the Rental Housing Units are pursuant to this Agreement;
- (d) throughout the Term, it will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) for a term of less than one month at a time;
- (e) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) to be sold or otherwise transferred unless title to every one of the Rental Housing Units (or Replacement Rental Housing Units, as applicable) is sold or otherwise transferred together and as a block to the same legal or beneficial owner, as applicable, and subject to Section 7.7;
- (f) throughout the Term, it will not suffer, cause or permit, the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided, whether by subdivision plan, strata plan or otherwise, without the prior written consent of the Director of Legal Services which consent may be arbitrarily withheld; provided, however, the Owner may, without obtaining any such consent, subdivide the Lands by strata plan or airspace subdivision plan so long as all of the Rental Housing Units are contained within one strata lot or one airspace parcel, respectively;

- (g) throughout the Term, that any sale of any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) in contravention of the covenant in Section 2.1(e), and any subdivision of the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(f), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (h) throughout the Term, it will keep and maintain the New Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings;
- (i) if the New Building, or any part thereof, is damaged during the Term, it will promptly restore and repair the same whenever and as often as damage occurs, to a state and condition that is equal to or greater than the state and condition thereof as existed before such damage occurred; and
- (j) throughout the Term, it will insure, or cause to be insured, the New Building to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands.

ARTICLE 3 OCCUPANCY RESTRICTION ON THE LANDS

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

- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Occupancy Permit in respect of, and will not suffer or permit the occupation of, the New Building and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit until such time as the Owner has delivered, to the General Manager of Planning, Urban Design and Sustainability, in form and substance satisfactory to the General Manager of Planning, Urban Design and Sustainability, proof 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:

PR 328 HASTINGS HOLDINGS LTD.
1818 - 701 West Georgia Street
Vancouver, British Columbia, V7Y 1C6
Attention: Azim Jamal

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

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

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

**ARTICLE 7
MISCELLANEOUS**

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

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

- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;

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

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

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

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

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

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

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

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

7.9 Vancouver Charter. Nothing contained or implied herein will derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter*, and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and the City.

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

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

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) **"Existing Chargeholder"** means ROYNAT INC.;
- (b) **"Existing Charges"** means the Mortgage registered under number CA7846443 and the Assignment of Rents registered under number CA7846444;
- (c) **"New Charges"** means the Housing Agreement and Section 219 Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

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

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

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

END OF DOCUMENT

EXPLANATION**A By-law to amend the Licence By-law No. 4450
regarding miscellaneous amendments**

On October 22, 2024, Council enacted By-law 14155 to amend Licence By-law No. 4450 regarding 2025 business licence fees and other miscellaneous amendments. The business licence types under Retail Dealer - Used Goods had been assigned incorrect fees. The attached by-law will correct those errors and is to take effect January 1, 2025.

Director of Legal Services
November 12, 2024

BY-LAW NO.

**A By-law to amend the Licence By-law No. 4450
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 Licence By-law No. 4450.
2. In Schedule A, Council strikes out the entries under “Retail Dealer - Used Goods” and their related fees and substitutes the following:

“

Retail Dealer - Used Goods, as follows:	
Pawnbroker	\$2,969
Secondhand Dealer – Class 1	\$2,969
Secondhand Dealer – Class 2	\$1,629
Secondhand Dealer – Class 3	\$1,060
Secondhand Dealer – Class 4	\$360
Secondhand Dealer – Class 5	\$360
Secondhand Dealer – Class 6	\$692

”.

3. This by-law is to come into force and take effect on January 1, 2025, immediately after By-law No. 14155 comes into force and effect.

ENACTED by Council this day of , 2024

Mayor

City Clerk