

**EXPLANATION****2024 Maintenance Costs for  
East Hastings Street Collective Parking Project**

Under section 506A of the *Vancouver Charter*, where Council has completed construction of a collective parking project undertaken as a local improvement, Council may pass a by-law annually to provide for the costs of maintaining the project, including real property taxes and local improvement charges which may be levied, but for the exemption allowed on City-owned lands. The attached by-law is to charge the benefiting owners with the 2024 maintenance costs and taxes with respect to the East Hastings Street Collective Parking Project.

Director of Legal Services  
April 15, 2025

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

**A By-law to assess real property to defray 2024 costs  
for the East Hastings Street Collective Parking Project**

**PREAMBLE**

Council undertook and constructed a collective parking project (the “East Hastings Street Project”) as a local improvement under By-law No. 4100, and specially assessed, for the construction cost, the real property described in Schedule A to this By-law.

Under section 506A of the *Vancouver Charter*, Council may pass a by-law annually to defray certain costs and charges associated with a collective parking project, by specially assessing the real property benefited by, and specially assessed for the construction of the collective parking project.

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

1. Council hereby imposes a special assessment upon the parcels of real property benefited by, and specially assessed for, the costs of the East Hastings Street Project, and described in Schedule A, to defray the costs of \$243,762.01 incurred by the City in connection with the project, calculated as set out in Schedule B, which apply to the period from January 1, 2024 to December 31, 2024; and hereby levies against each such parcel of real property as a special rate over and above all other rates and taxes, the individual amount, being a portion of such costs set out in Schedule A, opposite the description of each parcel.
2. Schedules A and B referred to herein, and attached to this by-law, form part of this by-law.
3. This by-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this     day of             , 2025

\_\_\_\_\_  
Mayor

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

## East Hastings Collective Parking

### Schedule "A"

**Total Amount to be collected** \$ 243,762.01

<u>Co-Ordinate &amp; Legal Description</u>	<u>Assessed Footage</u>	<u>Exempt Footage</u>	<u>2024 Charge</u>
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**North Side**

020-590-270-05 Lots 21 Amd & 22, Blk 54, THSL, Pln 1718	67.00		7,800.03
020-590-270-21 Lot 20 Amd, Blk 54, THSL, Pln 1718	33.00		3,841.81
020-590-270-33 Lot 19 Amd, Blk 54, THSL, Pln 1718	33.00		3,841.81
020-590-270-45 Lot 23, Blk 54, THSL, Pln 1718	26.90		3,131.65
020-590-270-51 Lot 24, Blk 54, THSL, Pln 1718	26.90		3,131.65
020-590-270-63 Lot 18, Blk 54, THSL, Pln 1718	33.00		3,841.81
020-590-270-69 Lot 17, Blk 54, THSL, Pln 1718	33.00		3,841.81
020-590-270-75 Lot 16, Blk 54, THSL, Pln 1718	33.00		3,841.81
020-590-270-83 Lot 15 Amd, Blk 54, THSL, Pln 1718 EX Pln16952	48.30		5,623.01
020-590-270-95 Lot 13 Amd, Blk 54, THSL, Pln 1718 EX Pln16952	38.50		4,482.11
020-271-588-74 Lot A of 31 & 32 Blk 53, THSL, Pln 6748	33.00	27.00	3,841.81
020-590-271-05 Lot B of 31 & 32 Blk 53, THSL, Pln 6748	33.00	27.00	3,841.81
020-590-271-23 Lots 29 & 30, Blk 53, THSL, Pln 1019	66.00		7,683.60

020-590-271-31 Lots 27 & 28, Blk 53, THSL, Pln 1019	66.00	7,683.60
020-590-271-63 Lot 1, Blk 53, THSL, Pln EPP20224	329.91	38,407.57
020-590-274-09 Lot 1, Pln EPP100543, THSL, GRP1	99.00	11,525.41
020-590-274-23 Lot 29, Blk 52, THSL, Pln 410	33.00	3,841.81
020-590-274-29 Lot 28, Blk 52, THSL, Pln 410	33.00	3,841.81
020-590-274-35 Lot 27, Blk 52, THSL, Pln 410	33.00	3,841.81
020-590-274-41 Lot 26 Amd, Blk 52, THSL, Pln 410	32.89	3,829.00
020-590-274-47 Lot 25 Amd, Blk 52, THSL, Pln 410	33.11	3,854.61
020-590-274-53 Lot 24, Blk 52, THSL, Pln 410	33.00	3,841.81
020-590-274-59 Lot 23, Blk 52, THSL, Pln 410	33.00	3,841.81
020-590-274-65 Lot 22, Blk 52, THSL, Pln 410	33.00	3,841.81
020-590-274-71 Lot 21, Blk 52, THSL, Pln 410	33.00	3,841.81
020-590-274-79 Lot 20, Blk 52, THSL, Pln 410	33.00	3,841.81
020-590-274-95 Lot A, Blk 52, THSL, Pln 410	99.00	11,525.41

<b>Total for North Side</b>	<b>1,428.51</b>	<b>54.00</b>	<b>\$166,304.80</b>
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<b>North Side Rate per foot:</b>	<b>\$116.418364</b>
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<b>Co-Ordinate &amp; Legal Description</b>	<b>Assessed Footage</b>	<b>Exempt Footage</b>	<b>2024 Charge</b>
<b>South Side</b>			
020-590-270-06 Lots 1 and 2, Blk 55, THSL, Plan 2684	65.40		3,806.88
020-590-270-18 Lots 3 and 4, Blk 55, THSL, Plan 2684	60.00		3,492.55
020-590-270-24 Lot 5, Blk 55, THSL, Plan 2684	30.00		1,746.28
020-590-270-36 Lot 6, Blk 55, THSL, Plan 2684	30.00		1,746.28
020-590-270-48 Lot 26, Blk 55, THSL, Plan 2500	25.00		1,455.23
020-590-270-54 Lot 25, Blk 55, THSL, Plan 2500	25.00		1,455.23
020-590-270-60 Lot 24, Blk 55, THSL, Plan 2500 Ex Plan 4298	25.00		1,455.23
020-590-270-66 Lot 23, Blk 55, THSL, Plan 2500 Ex Plan 4298	25.00		1,455.23
020-590-270-80 Lot A, Blk 55, THSL, Ex PI 9712	50.00		2,910.46
020-590-270-96 Lot 20, Blk 55, THSL, Plan 2500	35.30		2,054.78
<b>020-590-271-04</b> <b>*Strata LMS183 - see attached</b>	132.01		7,684.19
<b>020-590-271-46</b> <b>***Strata LMS1880 - see attached</b>	264.00		15,367.22
020-590-271-78 Lot 13, Blk 56, THSL, Plan 2422	33.00		1,920.91
020-590-271-96 Lots 14 to 16, Blk 56, THSL, Plan 2422	99.00		5,762.71
020-590-274-06 Lot 1, Blk 57, THSL, Plan 309A	48.00		2,794.04
020-590-274-18 Lot 2, Blk 57, THSL, Plan 309A	48.00		2,794.04

020-590-274-26	144.00	8,382.12
<b>****Strata BCS 3366 - see attached</b>		

020-590-274-42	95.96	5,585.75
<b>**Strata LMS 775 - see attached</b>		

020-590-274-68	96.00	0.00
<b>*Lot 8, Plan VAP309A - Hastings Library exempt</b>		

020-590-274-96	96.00	5,588.08
Lot A, Blk 57, THSL, Plan 309A		

<b>Total for South Side</b>	<u>1,330.67</u>	<u>96.00</u>	<u>\$77,457.21</u>
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<b>South Side Rate per foot:</b>	<u>\$58.209182</u>
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	<u>Rate per Foot</u>	<u>Assessed Footage</u>	<u>Total</u>
Total for North Side	\$ 116.418364	1,428.51	\$166,304.80
Total for South Side	\$ 58.209182	1,330.67	\$77,457.21
<b>Total Amount to be Collected:</b>			<u>\$243,762.01</u>

**Strata Title Shares**

	<u>Shares</u>	<u>Charge</u>
<b>*Strata LMS183 - Total Shares:</b>	<b>10,000</b>	<b>\$7,684.19</b>
020-590-271-04-0001	1,708	1,312.46
020-590-271-04-0002	8,292	6,371.73
	<u>10,000</u>	<u>\$7,684.19</u>
<b>**Strata LMS775 - Total Shares:</b>	<b>7,087</b>	<b>\$5,585.75</b>
020-590-274-42-0001	1,127	888.27
020-590-274-42-0002	1,127	888.27
020-590-274-42-0003	1,211	954.47
020-590-274-42-0004	1,211	954.47
020-590-274-42-0005	1,211	954.47
020-590-274-42-0006	1,200	945.80
	<u>7,087</u>	<u>\$5,585.75</u>
<b>***Strata LMS 1880 - Mixed Use - Commercial units only charged - Total shares:</b>	<b>19,405</b>	<b>\$15,367.22</b>
020-590-271-46-0002	878	695.31
020-590-271-46-0003	879	696.10
020-590-271-46-0004	908	719.06
020-590-271-46-0005	880	696.89
020-590-271-46-0006	834	660.46
020-590-271-46-0007	838	663.63
020-590-271-46-0008	936	741.24
020-590-271-46-0014	1,042	825.18
020-590-271-46-0015	1,083	857.65
020-590-271-46-0016	1,083	857.65
020-590-271-46-0017	1,562	1,236.98
020-590-271-46-0018	945	748.37
020-590-271-46-0019	995	787.96
020-590-271-46-0020	1,000	791.92
020-590-271-46-0021	995	787.96
020-590-271-46-0022	1,028	814.09
020-590-271-46-0023	1,001	792.71
020-590-271-46-0024	845	669.17
020-590-271-46-0025	789	624.83
020-590-271-46-0026	884	700.06
	<u>19,405</u>	<u>\$15,367.22</u>

**Strata Title Shares**

	<u>Shares</u>	<u>Charge</u>
<b>****Strata BCS 3366 - Mixed Use -</b>		
<b>Commercial units only charged - Total shares:</b>	<b>721</b>	<b>\$8,382.12</b>
020-590-274-26-0001	90	1,046.31
020-590-274-26-0002	92	1,069.56
020-590-274-26-0003	99	1,150.95
020-590-274-26-0004	76	883.55
020-590-274-26-0005	90	1,046.31
020-590-274-26-0006	108	1,255.58
020-590-274-26-0007	79	918.43
020-590-274-26-0008	87	1,011.43
	<u>721</u>	<u>\$8,382.12</u>



**East Hastings Collective Parking**

**Schedule "B"**

**January 1, 2024 to December 31, 2024**

**Costs of East Hastings Parking Project:**

<b><u>Account</u></b>	<b>20001815</b>	
	Electricity	\$1,753.35
	General & Other Taxing Authorities	\$242,008.66
	Maintenance/repair	-
<b>Total costs</b>		<b><u><u>\$243,762.01</u></u></b>

## East Hastings Collective Parking

January 1, 2024 to December 31, 2024

### Summary

Charges applicable to lots abutting Hastings Street from Nanaimo Street to Slocan Street and on the east side of Kamloops Street from Hastings Street to the lane north for maintenance of Collective Parking

### Assessed Footage:

North side of Hastings Street and East side of Kamloops Street	1,428.51
South side of Hastings Street	<u>1,330.67</u>
Total	<u><u>2,759.18</u></u>

### Exempt Footage:

North Side	54.00
South Side	<u>96.00</u>
Total	<u><u>150.00</u></u>

**Maintenance Charges for the year 2024** **\$243,762.01**

### Cost per foot (Ration 2:1 as per agreement):

North Side of Hastings Street	\$116.418364
South Side of Hastings Street	\$58.209182

### Amount To Be Collected:

North Side of Hastings Street	\$166,304.80
South Side of Hastings Street	<u>77,457.21</u>
Total	<b><u><u>\$243,762.01</u></u></b>

## **2024 Maintenance Costs for Trounce Alley and Blood Alley Square**

Under section 506B of the *Vancouver Charter*, where Council has completed construction of a local improvement, Council may pass a by-law annually to provide for the costs of maintaining the project, including real property taxes and local improvement charges which may be levied, but for the exemption allowed on City-owned lands. The attached by-law is to charge the benefiting owners with the 2024 maintenance costs with respect to the Trounce Alley and Blood Alley Square Local Improvement Project.

Director of Legal Services  
April 15, 2025



**Trounce Alley and Blood Alley Square Maintenance Project**

**SCHEDULE "A"**

Total Amount to be collected:..... **\$13,308.33**

<b>Co-ordinate &amp; Legal Description</b>	<b>Proportion of Costs</b>	<b>2024 Charge</b>
026-580-172-60 <b>*Strata Plan BCS 3229, Strata Lots 1-29 and 31-50 see attached</b>	12.12%	1612.97
026-580-172-80 PARCEL Y BLK 2 PLN BCP29043 DL OGT	15.04%	2001.57
026-580-172-92 PARCEL Z BLK 2 PLN BCP29042 DL OGT	16.97%	2258.42
026-589-172-45 LOT A OF 11 BLK 2 OGT REF PLAN 1457 PLAN 168	4.19%	557.62
*026-589-172-67 <b>*CoV Assessable as per Real Est. Serv.</b> LOT A BLK 2 PL EPP80295 DL OGT NWD	36.10%	4804.31
026-589-172-85 E 26 FT OF LOT 14 BLK 2 DL OGT PLAN 168	7.68%	1022.08
*026-178-580-61 <b>*Strata Plan LMS 738, Strata Lots 1 - 12 see attached</b>	<u>7.90%</u>	<u>1051.36</u>
	<b><u>100.00%</u></b>	<b><u>\$13,308.33</u></b>

<b>Strata Lot LMS 738</b>	<b><u>Total Shares</u></b>	<b><u>9,257</u></b>	<b><u>\$1,051.36</u></b>
026 178 580 61 0001	702		79.73
026 178 580 61 0002	614		69.73
026 178 580 61 0003	694		78.82
206 178 580 61 0004	903		102.56
026 178 580 61 0005	716		81.32
026 178 580 61 0006	744		84.50
026 178 580 61 0007	809		91.88
026 178 580 61 0008	903		102.56
026 178 580 61 0009	720		81.77
026 178 580 61 0010	740		84.05
026 178 580 61 0011	809		91.88
026 178 580 61 0012	<u>903</u>		<u>102.56</u>
	<b><u>9,257</u></b>		<b><u>\$1,051.36</u></b>

<b>Strata Plan BCS 3229</b>	<b><u>Total Shares</u></b>	<b><u>4,460</u></b>	<b><u>\$1,612.97</u></b>
026 580 172 60 0001	105		37.97
026 580 172 60 0051	86		31.10
026 580 172 60 0052	145		52.44
026 580 172 60 0004	42		15.19
026 580 172 60 0005	84		30.38
026 580 172 60 0006	68		24.59
026 580 172 60 0007	67		24.23
026 580 172 60 0008	65		23.51
026 580 172 60 0009	67		24.23
026 580 172 60 0010	85		30.74
026 580 172 60 0011	81		29.29
026 580 172 60 0012	58		20.98
026 580 172 60 0013	62		22.42
026 580 172 60 0014	62		22.42
026 580 172 60 0015	59		21.34
026 580 172 60 0016	81		29.29
026 580 172 60 0017	149		53.90
026 580 172 60 0018	121		43.76
026 580 172 60 0019	117		42.31
026 580 172 60 0020	115		41.59
026 580 172 60 0021	121		43.76
026 580 172 60 0022	150		54.26
026 580 172 60 0023	143		51.72
026 580 172 60 0024	91		32.91
026 580 172 60 0025	108		39.06
026 580 172 60 0026	102		36.89
026 580 172 60 0027	87		31.46
026 580 172 60 0028	137		49.55
026 580 172 60 0029	129		46.65

026 580 172 60 0031	65	23.51
026 580 172 60 0032	66	23.87
026 580 172 60 0033	85	30.74
026 580 172 60 0034	80	28.93
026 580 172 60 0035	70	25.32
026 580 172 60 0036	111	40.14
026 580 172 60 0037	66	23.87
026 580 172 60 0038	80	28.93
026 580 172 60 0039	60	21.70
026 580 172 60 0040	68	24.59
026 580 172 60 0041	68	24.59
026 580 172 60 0042	62	22.42
026 580 172 60 0043	81	29.29
026 580 172 60 0044	70	25.32
026 580 172 60 0045	111	40.14
026 580 172 60 0046	66	23.87
026 580 172 60 0047	80	28.93
026 580 172 60 0048	144	52.08
026 580 172 60 0049	129	46.65
026 580 172 60 0050	<u>111</u>	<u>40.14</u>
	<b><u>4,460</u></b>	<b><u>\$1,612.97</u></b>

**Proportion of Costs as per By-law #4638, August 1, 1972**

**Trounce Alley and Blood Alley Square Maintenance Project**

**Schedule "B"**

**Costs to Trounce Alley and Blood Alley Square**

**January 1, 2024 to December 31, 2024**

**Account 20001816**

Street Lighting Maintenance	\$	<b>686.73</b>
Electricity		<b>465.66</b>
Street Cleaning		<b>12,155.94</b>
Total costs and charges:	\$	<b><u>13,308.33</u></b>



**Trounce Alley and Blood Alley Square Maintenance Project**

**Summary**

Charges applicable to properties abutting Trounce Alley (namely, the northerly production of the westerly limit of Blood Alley Square and Carrall Street) and in Blood Alley (namely, the public road dedicated as in Reference Plan 11708 in the Land Registry Office)

Costs are distributed in the same proportion as are the capital costs, which gives the percentage indicated for each property as attached on Schedule "A".

Total Maintenance Charges for: <u>2024</u>	<b>\$13,308.33</b>
Adjustments	<b>\$0.00</b>
Amount to be Collected:	<b><u>\$13,308.33</u></b>

**EXPLANATION****Authorization to enter into a Housing Agreement  
Re: 1235 Nanaimo Street**

On December 2, 2024, the Director of Planning approved in principle a development on 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 issuance of a Development Permit.

A Housing Agreement has been accepted and signed 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  
April 15, 2025

**BY-LAW NO.**

**A By-law to enact a Housing Agreement  
for 1235 Nanaimo 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:

013-896-695 LOT 6 EXCEPT THE WEST 4 FEET, NOW LANE OF LOT 2 BLOCK B  
OF BLOCK 134 DISTRICT LOT 264A PLAN 2319

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    , 2025

\_\_\_\_\_  
Mayor

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



1. Application

**Chen & Leung, Barristers and Solicitors**  
1530 - 1200 West 73rd Avenue  
Vancouver BC V6P 6G5  
604-264-8331

#89011 AAL/xw

2. Description of Land

PID/Plan Number	Legal Description
013-896-695	LOT 6 EXCEPT THE WEST 4 FEET, NOW LANE OF LOT 2 BLOCK B OF BLOCK 134 DISTRICT LOT 264A PLAN 2319

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Section 219 Covenant Entire Agreement

4. Terms

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

5. Transferor(s)

**TANGSTON PROPERTIES INC., NO.BC0796533**

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.

<p>Witnessing Officer Signature</p> <p><i>ALYSSA ANSON LEUNG</i>  <i>Solicitor &amp; Solicitor</i>        1530 - 1200 West 7<sup>th</sup> Avenue        Airport Square        Vancouver, B.C. V6P 6G5        Telephone: (604) 264-8331</p>	<p>Execution Date</p> <div style="border: 1px solid black; padding: 5px; text-align: center;">         YYYY-MM-DD           2025-03-25       </div>	<p>Transferor / Transferee / Party Signature(s)</p> <p><b>TANGSTON PROPERTIES INC.</b>        By their Authorized Signatory</p> <p><i>[Signature]</i>        _____        Kaibo Tang</p>
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**Officer Certification**

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

<p>Witnessing Officer Signature</p> <p>_____</p>	<p>Execution Date</p> <div style="border: 1px solid black; padding: 5px; text-align: center;">         YYYY-MM-DD       </div>	<p>Transferor / Transferee / Party Signature(s)</p> <p><b>CITY OF VANCOUVER</b>        By their Authorized Signatory</p> <p>_____</p>
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**Officer Certification**

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

**Electronic Signature**

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

TERMS OF INSTRUMENT - PART 2  
 HOUSING AGREEMENT AND BUILDING USE COVENANT  
 FOR-PROFIT AFFORDABLE RENTAL HOUSING  
 1235 NANAIMO STREET

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- (i) the Transferor, TANGSTON PROPERTIES INC., as more particularly defined in Section 1.1 is called the "Owner"; and
  - (ii) the Transferee, CITY OF VANCOUVER, is called the "City" or the "City of Vancouver" when referring to corporate entity continued under the *Vancouver Charter*, 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 for a development permit pursuant to Development Permit No. DP-2024-00851 (the "Development Permit Application") to develop a mixed-use residential building with one storey of retail units and two storeys with a total of four rental dwelling units;
- D. The Development Permit Application was approved in principle, subject to a number of conditions including that 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* and a Section 219 covenant securing all residential units in the New Building as for-profit affordable rental housing units, excluding Seniors Supportive or Assisted Housing, pursuant to Section 3.1A of the Vancouver DCL By-law for the longer of 60 years and life of the New Building, and subject to the following additional conditions:
- (i) a no separate-sales covenant;
  - (ii) a no stratification covenant;
  - (iii) that none of such units will be rented for less than one month at a time;
  - (iv) that the average initial starting monthly rents for each unit type will for initial occupancy not exceed the rents outlined by Section 3.1A(e) of the Vancouver DCL By-law;
  - (v) that a rent roll be provided, prior to issuance of an occupancy permit, to the satisfaction of General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services; and
  - (vi) such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may in their sole discretion require; and

- E. The Owner and the City are now entering into this Agreement to satisfy the foregoing condition.

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

#### ARTICLE 1 DEFINITIONS AND INTERPRETATION

- 1.1 Definitions. Terms defined in this Section 1.1, unless specifically otherwise provided in this Agreement, will have the following meanings:
- (a) **"Agreement"** means this housing agreement and building use covenant, including the foregoing recitals and all schedules hereto;
  - (b) **"Building Permit"** means any building permit issued by the City authorizing the building of a New Building as contemplated by the 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 Permit"** means any development permit issued by the City authorizing the development of the Lands contemplated by the Development Permit Application;
  - (g) **"Development Permit Application"** has the meaning ascribed to that term in Recital C;
  - (h) **"Director of Legal Services"** means the chief administrator from time to time of the City's Legal Services Department and her/his successors in function and their respective nominees;
  - (i) **" Dwelling Unit "** has the meaning set out in the City's Zoning and Development By-law No. 3575, as amended or replaced from time to time;
  - (j) **"Effective Date"** means the date as of which this Agreement has been executed by all parties to it;

- (k) **"For-Profit Affordable Rental Housing"** means a building containing multiple Dwelling Units which meets the requirements of Section 3.1A of the Vancouver DCL By-law to be "Class B for-profit affordable rental housing" (as defined therein), but does not include alterations of or extensions to those Dwelling Units; PROVIDED, HOWEVER, that if the definition of For-Profit Affordable Rental Housing applicable at the time when a Building Permit is issued differs from the foregoing, the definition applicable at the time of Building Permit issuance will apply unless otherwise provided in the Vancouver DCL By-law;
- (l) **"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;
- (m) **"General Manager of Planning, Urban Design and Sustainability"** means the chief administrator from time to time of the City's Planning, Urban Design and Sustainability Department and his/her successors in function and their respective nominees;
- (n) **"Land Title Act"** means the Land Title Act, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
- (o) **"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;
- (p) **"Losses"** means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, judgements, builders liens, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (q) **"New Building"** means any new building or structure to be built on the Lands 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;
- (r) **"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;
- (s) **"Owner"** means the registered owner of the Lands as of the Effective Date, namely TANGSTON PROPERTIES INC., and its successors and permitted assigns;
- (t) **"Owner's Personnel"** means any and all of the Owner's officers, directors, employees, agents, nominees, delegates, contractors, subcontractors, licencees, invitees, permittees and lessees;
- (u) **"Related Person"** means, where the registered or beneficial owner of the For-Profit Affordable 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;
- (v) "**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;
- (w) "**Replacement For-Profit Affordable Rental Housing Unit**" has the meaning ascribed to that term in section 2.1(c) and "**Replacement For-Profit Affordable Rental Housing Units**" means all of such units;
- (x) "**Residential Tenancy Act**" means the Residential Tenancy Act, S.B.C. 2002, c. 78, and all amendments thereto and re-enactments thereof;
- (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);
- (aa) "**Vancouver Charter**" means the Vancouver Charter, S.B.C. 1953, c. 55, and all amendments thereto and re-enactments thereof; and
- (bb) "**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. 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 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) the Lands, the New Building and the For-Profit Affordable Rental Housing Units will not be used in any way that is inconsistent with the terms of this Agreement;
  - (b) the Owner will construct, fit and finish the New Building, at its sole cost and expense, and throughout the Term, will maintain not less than four Dwelling Units approved in the Development Permit, 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 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") in accordance with the terms of this Agreement;

- (d) the average initial monthly starting rents at occupancy for each unit type of the For-Profit Affordable Rental Housing Units will be at or below the amounts determined in accordance with Section 3.1A(e) of the Vancouver DCL By-law;
- (e) 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 For-Profit Affordable Rental Housing Unit for a term of less than 90 consecutive days at a time;
- (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 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;
- (g) 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;
- (h) throughout the Term, that any sale of any For-Profit Affordable Rental Housing Unit in contravention of the covenant in Section 2.1(f), 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(g), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (i) throughout the Term, 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;
- (j) 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 at least as good a state and condition as existed before such damage occurred;
- (k) 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;
- (l) the rent charged for each For-Profit Affordable Rental Housing Unit as of initial occupancy will not be increased before the one year anniversary of that date even if there is a change in occupancy during that year; and
- (m) in the event of the substantial or complete destruction of the New Building prior to the 60 year anniversary of the issuance of the final Occupancy Permit, it will

promptly take all steps reasonably necessary to enable it to build a replacement building or buildings on the Lands, which building(s) (together with any remaining undestroyed or undemolished portion of the New Building) will also contain not less than the same number and type of replacement Housing Units as the New Building formerly contained, unless the City then otherwise agrees in its absolute and unfettered discretion, which replacement Dwelling Units will also be used only for the purpose of providing For-Profit Affordable Rental Housing (each such replacement Housing Unit, referred to as a "Replacement For-Profit Affordable Rental Housing Unit"), for the duration of the Term 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 will be subject, for the remaining duration of the Term, to the same use restrictions as the For-Profit Affordable Rental Housing Units pursuant to this Agreement.

### ARTICLE 3 OCCUPANCY RESTRICTION ON THE LANDS

- 3.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:
- (a) the 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 satisfaction of the General Manager of Planning, Urban Design and Sustainability a final rent roll confirming the rents to be charged to the first occupants of the For-Profit Affordable Rental Housing Units following issuance of the Occupancy Permit, and the unit type mix and sizes, which rents, unit type mix and sizes shall comply with this Agreement as of the date when the Occupancy Permit is issued; 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 6, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of an Occupancy Permit until there is compliance with the provisions of this ARTICLE 3.

### ARTICLE 4 RECORD KEEPING

- 4.1 The Owner will keep accurate records pertaining to the use, occupancy and rental rates charged of/for the For-Profit Affordable Rental Housing Units such records to be to the satisfaction of the General Manager of Planning, Urban Design and Sustainability. At the request of the General Manager of Planning, Urban Design and Sustainability, from time to time, the Owner will:

- (a) make such records available for inspection and copying by City staff, subject to applicable restrictions in any tenancy, privacy and other laws which place limitations on such disclosure; and
- (b) provide evidence of the insurance required to be taken out pursuant to Section 2.1(k).

#### ARTICLE 5 ENFORCEMENT

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

#### ARTICLE 6 RELEASE AND INDEMNITY

- 6.1 Release and Indemnity. Subject to Section 6.1(a), the Owner hereby:
- (a) will not make any claims against the City or City Personnel and releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner in connection with this Agreement, including without limitation:
    - (i) by reason of the City or City Personnel:
      - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
      - B. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement;
      - C. withholding any permit pursuant to this Agreement; or
      - D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or
    - (ii) that otherwise arise out of, or would not have been incurred but for this Agreement; and

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 any 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; and

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

## 6.2 Conduct of Proceedings.

- (a) In the event that a claim is made against the City which, pursuant to the terms of this Agreement, requires the Owner to indemnify the City or City Personnel, then the City will give notice of such claim to the Owner and, subject to Section 6.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 6.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 6.2(a) in the following circumstances:
  - (i) where the City Manager determines that the proper administration of the municipal government requires that decisions with respect to the claim be made by the City;

- (ii) where the City Manager determines that the public interest requires that the matter be resolved in an open and public way; or
- (iii) where, in the opinion of the City Manager, the claim is of a nature where decisions with respect to settling or defending it would create a precedent with respect to other existing or potential claims affecting or involving the City;

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

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

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

#### ARTICLE 7 NOTICES

- 7.1 All notices, demands or requests of any kind which one party may be required or permitted to give to the other in connection with this Agreement, will be in writing and will be given by registered mail or personal delivery, addressed as set forth below. Any such notice, demand or request will be deemed given:
- (a) if made by registered mail, on the earlier of the day receipt is acknowledged by the addressee or the third day after it was mailed, except when there is a postal service disruption during such period, in which case delivery will be deemed to be completed upon actual delivery of the notice, demand or request; and
  - (b) if personally delivered, on the date when delivered.

If to the City, addressed to:

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

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

If to the Owner, addressed to:

Tangston Properties Inc.  
5124 Victoria Drive  
Vancouver, British Columbia  
V5P 3V2

Attention: Kaibo Tang

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

#### ARTICLE 8 MISCELLANEOUS

- 8.1 Agreement Runs With the Lands. The covenants and agreements set forth herein on the part of the Owner will be covenants the burden of which will run with and will bind the Lands and will attach thereto.
- 8.2 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.
- 8.3 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.
- 8.4 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.
- 8.5 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.

- 8.6 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.
- 8.7 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*.
- 8.8 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 by way of mortgage, where the mortgagee has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage), subject always to Sections 2.1(f) and 2.1(g), the Owner will cause the purchaser/ transferee to enter into an assumption agreement with the City, in form and substance satisfactory to the Director of Legal Services, pursuant to which the purchaser/transferee will agree to be bound by all of the obligations, agreements and indemnities of the Owner under this Agreement. The provisions in this Section 8.8 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).
- 8.9 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.

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

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

END OF DOCUMENT

**EXPLANATION****Authorization to enter into a Housing Agreement  
Re: 1068 - 1090 Burnaby Street and 1318 Thurlow Street**

After the public hearing on November 26, 2024, Council approved in principle the land owner's application to rezone the above noted property from RM-5A (Residential) District to CD-1 (Comprehensive Development) District, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant, and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services  
April 15, 2025

**BY-LAW NO.**

**A By-law to enact a Housing Agreement  
for 1068 - 1090 Burnaby Street and 1318 Thurlow 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:

030-712-831

Lot 1 District Lot 185 Group 1 New Westminster District  
Plan EPP87122

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    , 2025

\_\_\_\_\_ Mayor

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



Land Title Act

**Charge**

General Instrument – Part 1

1. Application

**Samantha Haddow, TERRA LAW CORPORATION**  
**2800 - 650 West Georgia Street**  
**Vancouver BC V6B 4N7**  
**604-628-8969**

507257 - Housing Agreement (1068 - 1090 Burnaby Street and 1318 Thurlow Street)

2. Description of Land

PID/Plan Number      Legal Description

**030-712-831      LOT 1 DISTRICT LOT 185 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP87122**

3. Nature of Interest

Type	Number	Additional Information
<b>COVENANT</b>		<b>Section 219 Covenant Entire Instrument</b>
<b>PRIORITY AGREEMENT</b>		<b>Page 27</b>

4. Terms

Part 2 of this instrument consists of:

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

5. Transferor(s)

**THURLOW STREET PROJECT NOMINEE INC., NO.BC1125147**

**THE BANK OF NOVA SCOTIA**

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)



YYYY-MM-DD  
2025-03-25

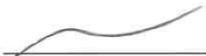
**THURLOW STREET PROJECT  
NOMINEE INC.**

By their Authorized Signatory

**Kevin Hill**  
*Barrister & Solicitor*  
1100 - 1055 Dunsmuir Street  
Vancouver, BC Canada V7X 1K8  
604 689-3040



Name: *Nicholas Apas*



Name: *MARK KOPINYA*

**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.



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

**THURLOW STREET PROJECT  
NOMINEE INC.**  
By their Authorized Signatory

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

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

**Officer Certification**

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

Witnessing Officer Signature

Execution Date

Transferor / Transferee / Party Signature(s)

YYYY-MM-DD  
2025-04-02

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

  
Name:

Edwin Ho  
Director & Group Lead  
Real Estate Banking

**ANAN LIU**  
Commissioner for Taking Affidavits  
for British Columbia  
34th Floor, 650 West Georgia Street  
Vancouver, BC V6B 4N7  
Commission Expiry Date: September 30, 2025

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

**Officer Certification**

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



Land Title Act

**Charge**

General Instrument – Part 1

Witnessing Officer Signature

Execution Date

Transferor / Transferee / Party Signature(s)

YYYY-MM-DD

**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 BELOW-MARKET RENTAL HOUSING

1068 - 1090 BURNABY STREET AND 1318 THURLOW STREET

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- (i) the Transferor, THURLOW STREET PROJECT NOMINEE INC., is called the "Owner", as more particularly defined in Section 1.1(bb); 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 RM-5A (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 20 percent of the residential floor area counted in the calculation of the floor space ratio secured as Below-Market 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 and the City are entering into this Agreement to satisfy the Housing Condition.

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

ARTICLE 1  
DEFINITIONS AND INTERPRETATION

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

- (a) **"Agreement"** means this housing agreement and building use covenant, including the foregoing recitals and all schedules hereto;
- (b) **"Below-Market Rental Housing"** means a portion of the For-Profit Affordable Rental Housing in a building that is comprised of at least 20% 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 Criteria for 100% Secured Rental and Below-Market Housing as an Alternative to Inclusionary Social Housing in the Burrard Corridor of the West End Community Plan;
- (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 and delivered to the City providing information regarding each of the Below-Market 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;
- (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 building of a New Building as contemplated by the Rezoning By-law and the Development Permit;
- (g) **"City"** and **"City of Vancouver"** have the meaning ascribed to those terms in Recital A(ii);
- (h) **"City Manager"** means the chief administrator from time to time of the City and his or her successors in function and their respective nominees;
- (i) **"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;
- (j) **"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;
- (k) **"Criteria for 100% Secured Rental and Below-Market Housing as an Alternative to Inclusionary Social Housing in the Burrard Corridor of the West End Community Plan"** means the Criteria for 100% Secured Rental and Below-Market

Housing as an Alternative to Inclusionary Social Housing in the Burrard Corridor of the West End Community Plan approved by City Council on November 24, 2020;

- (l) **"Development Permit"** means any development permit issued by the City authorizing the development of the Lands contemplated by the Rezoning By-law;
- (m) **"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;
- (n) **"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;
- (o) **"Effective Date"** means the date as of which this Agreement has been executed by all parties to it;
- (p) **"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;
  - (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; 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;
    - (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; 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;

- (q) **“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;
- (r) **“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 “Class A for-profit affordable rental housing” (as defined therein);
- (s) **“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;
- (t) **“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;
- (u) **“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;

- (v) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
- (w) "**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;
- (x) "**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;
- (y) "**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;
- (z) "**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;
- (aa) "**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;
- (bb) "**Owner**" means the registered owner of the Lands as of the Effective Date, namely, THURLOW STREET PROJECT NOMINEE INC., and its successors and assigns;
- (cc) "**Owner's Personnel**" means any and all of the officers, directors, employees, agents, nominees, delegates, permittees, contractors and subcontractors of the Owner;
- (dd) "**Personal Information Protection Act**" means the *Personal Information Protection Act*, S.B.C. 2003, c.63, and all amendments thereto and re-enactments thereof;
- (ee) "**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;
- (ff) "**Related Person**" means, where the registered or beneficial owner of the Rental Housing Units is:
  - (i) a corporation (as that term is defined in the *Business Corporations Act*, S.B.C. 2002, c.57, then a Related Person is:

- (A) an officer, director or shareholder of such Owner or of another entity which is a shareholder of such Owner; or
  - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder; and
- (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (gg) **"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, but specifically excluding use as Seniors Supportive or Assisted Housing, 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;
- (hh) **"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;
- (ii) **"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 one such unit;
- (jj) **"Residential Tenancy Act"** means the *Residential Tenancy Act* S.B.C. 2002, c. 78 and all amendments thereto and re-enactments thereof;
- (kk) **"Residential Tenancy Regulation"** means the *Residential Tenancy Regulation*, B.C. Reg. 477/2003 and all amendments thereto and re-enactments thereof;
- (ll) **"Rezoning Application"** has the meaning ascribed to that term in Recital C;
- (mm) **"Rezoning By-law"** has the meaning ascribed to that term in Recital C;
- (nn) **"Seniors Supportive or Assisted Housing"** has the meaning set out in the City's Zoning and Development By-law No. 3575, as amended or replaced from time to time;
- (oo) **"Statement of Below-Market 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 Below-Market 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 Below-Market 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 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;

- (pp) "**Tenancy Agreement**" means a residential tenancy agreement, lease, licence or other agreement prepared in accordance with, and subject to, the *Residential Tenancy Act*, granting rights to occupy a Below-Market Rental Housing Unit;
- (qq) "**Tenant**" means an Eligible Person who is a tenant of a Below-Market Rental Housing Unit by way of a Tenancy Agreement;
- (rr) "**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;
- (ss) "**Vancouver**" has the meaning ascribed to that term in Recital A(ii);
- (tt) "**Vancouver Charter**" means the *Vancouver Charter* S.B.C. 1953, c. 55, and all amendments thereto and re-enactments thereof; and
- (uu) "**Vancouver DCL By-law**" means the Vancouver Development Cost Levy By-law No. 9755, and all amendments thereto and re-enactments thereof.

1.2 Interpretation. In this Agreement:

- (a) Party. Any reference to a party herein will be deemed to include the heirs, executors, administrators, successors, assigns, employees, servants, agents, officers, contractors, licensees and invitees of such parties wherever the context so permits or requires.
- (b) Singular; Gender. Wherever the singular or masculine or neuter is used in this Agreement, the same will be construed to mean the plural or the feminine or body corporate or politic, and vice versa, as the context or the parties so require.
- (c) Captions and Headings. The captions and headings appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any of the provisions hereof.



- (d) References. References to the or this "**Agreement**" and the words "**hereof**" "**herein**" and similar words refer to this Agreement as a whole and not to any section or subsection or other subdivision hereof and any reference in this Agreement to a designated Recital, Section, subsection or other subdivision is a reference to the designated Recital, Section, subsection or subdivision hereof.
- (e) Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia.
- (f) Legislation. Any reference to a statute or by-law includes and is a reference to such statute or by-law and to the regulations made pursuant thereto in force on the Effective Date, with all amendments made thereto and as in force from time to time, and to any statute, by-law and regulations that may be passed which have the effect of supplementing or superseding such statutes, by-laws and regulations.
- (g) Time. Time will be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time will be local Vancouver, British Columbia time.

## ARTICLE 2 RESTRICTIONS ON USE OF LANDS AND SUBDIVISION

- 2.1 The Owner covenants and agrees with the City, in respect of the use of the Lands and the construction and use of the New Building, that throughout the Term:
  - (a) the Lands, the New Building and the For-Profit Affordable Rental Housing Units (including the 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 New Building, including the For-Profit Affordable Rental Housing Units (including the Below-Market 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 (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Below-Market Rental Housing (the "**Below-Market 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 Below-Market Rental Housing (such replacement Dwelling Units hereinafter referred to as a "**Replacement Below-Market 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 Below-Market 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 Below-Market 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 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 to that type of Below-Market Rental Housing Unit, as described in Section 2.1(o) and the Owner will withhold its consent to any assignment or subletting of a Below-Market Rental Housing Unit in accordance with Section 2.1(e)(v)(D)VI.b;
  - (iii) each Below-Market Rental Housing Unit shall be occupied only by an Eligible Person who is 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 and the Eligible Person for the rental thereof;
  - (iv) each Below-Market 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 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 90 consecutive days;
- (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 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;
  - III. the Below-Market Rental Housing Unit will have at least one Occupant per bedroom thereof;
  - 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;
  - V. the Below-Market 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 Below-Market 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 Owner becomes aware that 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 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) 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 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, 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 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 Below-Market Rental Housing Units;

- (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 and 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 is 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 For-Profit Affordable Rental Housing Unit for a term of less than 90 consecutive days at a time;
- (i) except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any For-Profit Affordable Rental Housing Unit to be sold or otherwise transferred unless title to every one of the For-Profit Affordable Rental Housing Unit is sold or otherwise transferred together and as a block to the same legal owner and beneficial owner (provided that such legal owner may be different from such beneficial owner), as applicable, and subject to Section 9.9;
- (j) the Owner will not suffer, cause or permit, the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided, whether by subdivision plan, strata plan or otherwise, without the prior written consent of the Director of Legal Services which consent may be arbitrarily withheld;
- (k) any sale of any For-Profit Affordable Rental Housing Unit in contravention of the covenant in Section 2.1(i), and any subdivision of the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(j), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (l) the Owner will keep and maintain the New Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings;

- (m) if the New Building or any part thereof, is damaged, it will promptly restore and repair the same whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred reasonable wear and tear excepted;
- (n) the Owner will insure, or cause to be insured the New Building to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands;
- (o) with respect to the Below-Market Rental Housing Units:
  - (i) not less than 30% of the Below Market Rental Housing will be rented at rates that are at or below an amount that is 50% below the private apartment average rents applicable to the respective unit type for Zone 2 (or equivalent zone which includes the location of the building) according to the CMHC Rental Market Survey:
    - (A) for the initial tenancy, most recently published at the time when the Occupancy Permit is issued; and
    - (B) for all subsequent tenancies, most recently published at the time when the respective tenancy of a Below-Market Rental Housing Unit commences;
  - (ii) the balance of the Below Market Rental Housing Units will be rented at rates at or below an amount that is 20% below the average market rent applicable to the respective unit type for Zone 2 (or equivalent zone which includes the location of the building) according to the CMHC Rental Market Survey:
    - (A) for the initial tenancy, most recently published at the time when the Occupancy Permit is issued; and
    - (B) for all subsequent tenancies, most recently published at the time when the respective tenancy of a Below-Market Rental Housing Unit commences;
  - (iii) the initial unit numbers, unit type, unit size and rents to be charged by the Owner to the first Tenants of each of the Below-Market Rental Housing Units in the New 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;
  - (iv) following the issuance of the Occupancy Permit, subject to the terms of this Agreement, including, without limitation, that not less than twenty (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing 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 (but is not obliged to) substitute and re-assign the designation of such Dwelling Unit as a Below-Market 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 Below-Market Rental Housing Units in the New Building remain unchanged and the initial rent for the newly assigned Below-Market Rental Housing Unit will be set in accordance with Section 2.1(o)(i)(B); and

- (v) following the issuance of the Occupancy Permit, during a tenancy of a Below-Market Rental Housing Unit, the Owner shall not increase the rent for the Below-Market 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 Below-Market 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 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 New Building or a Below-Market Rental Housing Unit.

### ARTICLE 3 BUILDING RESTRICTION ON THE LANDS

- 3.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:
- (a) the Lands and the New Building will not be used or occupied except as follows:
    - (i) the Owner will not apply for any Building Permit, and will take no action, directly or indirectly, to compel the issuance of any Building Permit, until such time as the Owner has 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, and the unit type mix and size, 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 Building Permit until such time as the Owner has complied with Section 3.1(a)(i); and
  - (b) without limiting the general scope of ARTICLE 7, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel

for any Losses that may derive from the withholding of a Building Permit until there is compliance with the provisions of this ARTICLE 3.

**ARTICLE 4  
OCCUPANCY RESTRICTION ON THE LANDS**

- 4.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:
- (a) the Lands and the New Building will not be used or occupied except as follows:
    - (i) the Owner will not 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 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 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 New Building until such time as the Owner has complied with Section 4.1(a)(i); and
  - (b) without limiting the general scope of ARTICLE 7, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of an Occupancy Permit until there is compliance with the provisions of this ARTICLE 4.

**ARTICLE 5  
RECORD KEEPING**

- 5.1 The Owner will 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. 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 Below-Market 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 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 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 6 ENFORCEMENT

- 6.1 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 7 RELEASE AND INDEMNITY

- 7.1 Release and Indemnity. Subject to Section 7.2, the Owner hereby:
- (a) will not make any claims against the City or City Personnel and releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner in connection with this Agreement, including without limitation:
    - (i) by reason of the City or City Personnel:
      - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
      - B. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement
      - C. withholding any permit pursuant to this Agreement; or
      - D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or
    - (ii) that otherwise arise out of, or would not have been incurred but for this Agreement;

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

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

## 7.2 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 7.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.

- (b) Section 7.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 7.2(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 7.2(b); and

- (c) Regardless of whether the claim is being defended under Section 7.2(a) or Section 7.2(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.

- 7.3 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 8 NOTICES

- 8.1 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 12<sup>th</sup> 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:

Thurlow Street Project Nominee Inc.  
1000 - 1055 Dunsmuir Street  
Vancouver, British Columbia  
V7X 1K8

Attention: Mark Kopinya

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 9 MISCELLANEOUS**

- 9.1 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 9.9, the parties agree that the covenants and agreements herein contained shall only be binding upon the transferring party in respect of a breach or acts or omissions occurring during its ownership.
- 9.2 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.

- 9.3 Application of Residential Tenancy Act to Termination Notice. The City agrees that, in the event the Owner delivers a termination notice to a Tenant pursuant to Section 2.1(e)(vi), and such termination notice is found to be ineffective by a ruling or decision of any judicial body having jurisdiction in connection with the *Residential Tenancy Act*, provided that the termination notice was not found to be ineffective by reason of an error by or the negligence of the Owner, including any error by the Owner in delivering the termination notice in accordance with, or complying with the applicable time limits in, the *Residential Tenancy Act* or *Residential Tenancy Regulation*, the Owner shall not be in breach of its obligation to ensure that:
- (a) not less than twenty (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing 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 twenty (20) percent 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.
- 9.4 Enforcement. This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it will be entitled to court costs on a solicitor and own client basis.
- 9.5 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.
- 9.6 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.
- 9.7 Waiver. The Owner acknowledges and agrees that no failure on the part of the City to exercise and no delay in exercising any right under this Agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.

- 9.8 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*.
- 9.9 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 9.9 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).
- 9.10 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.
- 9.11 Liability. Notwithstanding anything to the contrary contained herein, the Owner shall not be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Owner ceases to have any further interest in the Lands.
- 9.12 Enurement. This Agreement will enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement will enure to the benefit of and be binding upon the Owner and its successors and assigns.

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



**CONSENT AND PRIORITY INSTRUMENT**

In this consent and priority instrument:

- (a) **"Existing Chargeholder"** means THE BANK OF NOVA SCOTIA;
- (b) **"Existing Charges"** means the Mortgage registered under number CB1459448 and the Assignment of Rents registered under number CB1459449;
- (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: 2992 Commercial Drive**

On November 5, 2024, the Director of Planning approved in principle a development on 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. The Housing Agreement was 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  
April 15, 2025

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

**A By-law to enact a Housing Agreement  
for 2992 Commercial Drive**

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:

029-384-818

Lot A of Lot C Block 169 District Lot 264A Group 1 New  
Westminster District Plan EPP42149

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 \_\_\_\_\_, 2025

\_\_\_\_\_  
Mayor

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



1. Application

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

File no. 507391

2. Description of Land

PID/Plan Number	Legal Description
<b>029-384-818</b>	<b>LOT A OF LOT C BLOCK 169 DISTRICT LOT 264A GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP42149</b>

3. Nature of Interest

Type	Number	Additional Information
<b>COVENANT</b>		<b>Section 2.1</b> <b>Section 219 Covenant</b>
<b>COVENANT</b>		<b>Section 3.1</b> <b>Section 219 Covenant</b>

4. Terms

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

5. Transferor(s)

**2954 HOLDINGS LTD., NO.BC0951189**

6. Transferee(s)

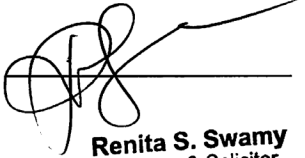

**CITY OF VANCOUVER**  
**453 WEST 12TH AVENUE**  
**VANCOUVER BC V5Y 1V4**

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   <b>Renita S. Swamy</b> Barrister & Solicitor Terra Law Corporation Suite 2800 - 650 West Georgia St. Vancouver, BC V6B 4N7 604-683-8962 <small>Officer Certification</small> Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the <i>Evidence Act</i> , 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 <i>Land Title Act</i> as they pertain to the execution of this instrument.	Execution Date  <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">           YYYY-MM-DD             2025/04/01         </div>	Transferor / Transferee / Party Signature(s)  <b>2954 HOLDINGS LTD.</b> By their Authorized Signatory   <b>Name:</b> Minaz Shajani
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Witnessing Officer Signature  _____	Execution Date  <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">           YYYY-MM-DD         </div>	Transferor / Transferee / Party Signature(s)  <b>CITY OF VANCOUVER</b> By their Authorized Signatory  _____ <b>Name:</b>
---	--	--

**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.

<p><b>Electronic Signature</b></p> <p>Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the <i>Land Title Act</i>, 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.</p>	<div style="border: 1px solid black; width: 100%; height: 30px;"></div>
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TERMS OF INSTRUMENT - PART 2  
HOUSING AGREEMENT AND BUILDING USE COVENANT  
RENTAL HOUSING  
2992 COMMERCIAL DRIVE

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- I. the Transferor, 2954 HOLDINGS LTD., is called the “Owner”, as more particularly defined in Section 1.1(r); and
  - II. the Transferee, CITY OF VANCOUVER, is called the “City” or the “City of Vancouver” when referring to corporate entity continued under the *Vancouver Charter*, and “Vancouver” when referring to geographic location;
- B. The Owner is the registered owner of the Lands;
- C. The Owner made an application to develop the Lands pursuant to Development Application DP-2024-00722 (the “Development Application”) to permit the development of a six-storey + amenity mixed-use residential building, with one level of retail and five levels of residential containing a total of 14 secured market rental housing dwelling units (the “Development”), which Development Application was approved by the Director of Planning in principle, subject to, among other things, fulfilment of the condition that, prior to issuance of a Development Permit, the Owner will:
- “2.1 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 securing all residential units, as secured market rental housing, excluding Seniors Supportive or Assisted Housing, for a term equal to the longer of 60 years and the life of the building, subject to the following additional conditions:*
- i A no separate-sales covenant;*
  - ii a no stratification covenant;*
  - iii that none of such units will be rented for less than one month at a time; and*
  - iv such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may in their sole discretion require.*
- Note to Applicant:** *This condition will be secured by a Housing Agreement to be entered into by the City By-law enacted pursuant to Section 565.2 of the Vancouver Charter.”; 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”** has the meaning ascribed to it in Recital C;
- (g) **“Development Application”** has the meaning ascribed to it in Recital C;
- (h) **“Development Permit”** means any development permit issued by the City authorizing the development of the Lands contemplated by the Development Application;
- (i) **“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;
- (j) **“Dwelling Unit”** means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (k) **“Effective Date”** means the date as of which this Agreement has been executed by all parties to it;
- (l) **“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;
- (m) **“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;

- (n) “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;
- (o) “Losses” means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, 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;
- (p) “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 the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (q) “Occupancy Permit” means a permit issued by the City authorizing the use and occupation of any New Building, development or partial development on the Lands issued after the Effective Date;
- (r) “Owner” means the registered owner of the Lands as of the Effective Date, namely 2954 HOLDINGS LTD., and its successors and permitted assigns;
- (s) “Related Person” means, where the registered or beneficial owner of the Rental Housing Units is:
  - (i) a corporation (as that term is defined in the *Business Corporations Act*, 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;
- (t) “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, but specifically excluding use as Seniors Supportive or Independent Living Housing, 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;
- (u) “Rental Housing Units” means 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;

- (v) “**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;
- (w) “**Residential Tenancy Act**” means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, as may be amended or replaced from time to time;
- (x) “**Seniors Supportive or Independent Living Housing**” has the meaning set out in the City’s Zoning and Development By-law No. 3575, as amended or replaced from time to time;
- (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 not less than 14 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 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 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 14 Rental Housing Units, which replacement Rental Housing Units will also be used only for the purpose of providing Rental Housing (each such replacement Rental Housing Unit hereinafter referred to as a “**Replacement Rental Housing Unit**”), in accordance with the terms of this Agreement and the applicable by-laws of the City and which Replacement Rental Housing Units will be subject, for the remaining duration of the Term, to the same use restriction as the Rental Housing Units are pursuant to this Agreement;
- (d) throughout the Term, it will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) for a term of less than one month at a time;
- (e) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or

registered title to any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) to be sold or otherwise transferred unless title to every one of the Rental Housing Units (or Replacement Rental Housing Units, as applicable) is sold or otherwise transferred together and as a block to the same legal or beneficial owner, as applicable (provided that such legal owner may be different from such beneficial owner in the transaction), 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, reasonable wear and tear excepted, 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 arise out of, or would not have been incurred but for this Agreement,

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

- (b) covenants and agrees to indemnify and save harmless the City and City Personnel, from and against all Losses which may arise or accrue to any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to, by reason of or which could not have been sustained "but for" any of the following:
- (i) this Agreement;
  - (ii) the release by the City or any or all of the City's rights under this Agreement or the loss of any rights purported to be granted hereby;
  - (iii) the City or City Personnel:
    - (A) reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
    - (B) withholding any permit pursuant to this Agreement;
    - (C) performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement; or
    - (D) exercising any of its rights under any Section 219 covenant or other right granted to the City pursuant to this Agreement; or
  - (iv) any negligent act or omission or wilful misconduct of the Owner or any of the Owner's Personnel in connection with the observance and performance of the obligations of the Owner under this Agreement; or
  - (v) any default in the due observance and performance of the obligations and responsibilities of the Owner under this Agreement,

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

**2954 Holdings Ltd.**  
Unit 200 - 2787 Canada Way  
Burnaby, British Columbia  
V5G 1G5

Attention: Director

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 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 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). Provided any such purchaser/transferee enters into an assumption agreement as provided in this Section 7.7, 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.

**7.8 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 Form C which is a part hereof.

**END OF DOCUMENT**