

EXPLANATION

**A By-law to amend the Zoning and Development By-law
Regarding Enabling Child Day Care Facilities in Residential Zones**

Following the Public Hearing on February 10, 2026, Council resolved to amend the Zoning and Development By-law (for R1-1, R3, R4, R5, RT, RM, and First Shaughnessy District) to permit a Child Day Care Facility (CDCF) and one dwelling unit to co-exist on a premises. Enactment of the attached by-law will implement Council's resolution.

Director of Legal Services
February 24, 2026

BY-LAW NO. _____

**A By-law to amend the Zoning and Development By-law No. 3575
Regarding Enabling Child Day Care Facilities in Residential Zones**

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

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

2. In section 2, Council:

(a) adds a new definition in the correct alphabetical order as follows:

“

Child Day Care Facility Conversion Dwelling	An existing Single Detached House or Single Detached House with Secondary Suite converted to contain only 1 Child Day Care Facility and 1 dwelling unit, each of which must have separate external access and must not have shared internal access.
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”

(b) in the definition for the term “Institutional Uses”, adds “Child Day Care Facility Conversion Dwelling;” to the list in the correct alphabetical order; and

(c) in the definition for the term “Laneway House”, strikes out “Single Detached House or Single Detached House with Secondary Suite” and substitutes “Single Detached House, Single Detached House with Secondary Suite, or Child Day Care Facility”.

3. In section 11, Council:

(a) in section 11.3.8.1, strikes out “single detached house or single detached house with secondary suite” and substitutes “single detached house, single detached house with secondary suite, or child day care facility”; and

(b) adds a new section 11.3.8.11 in the correct numerical order as follows:

“11.3.8.11 A laneway house in combination with a child day care facility is only permitted if:

(a) there is only 1 laneway house and 1 child day care facility on the site; and

(b) the child day care facility is in a building that was converted from a single detached house or single detached house with secondary suite, and contains no other uses.”

4. In the R1-1 district schedule, the RT-5 district schedule, and the RM-9A district schedule. Council:

- (a) in section 2.1, adds the following new line under “Institutional Uses” in the correct alphabetical order:

“

Child Day Care Facility Conversion Dwelling	Conditional	2.2.16
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”; and

- (b) in section 2.2, adds the following new section 2.2.16 in the correct numerical order:

“2.2.16 Child day care facility conversion dwelling is subject to the regulations, variations and relaxations that apply to:

- (a) single detached house, when the child day care facility conversion dwelling was converted from a single detached house; and
- (b) single detached house with secondary suite, when the child day care facility conversion dwelling was converted from a single detached house with secondary suite.”.

5. In the RT-1 district schedule, the RT-2 district schedule, the RT-4 and RT-4A districts schedule, and the RT-10 district schedule, Council:

- (a) in section 2.1, adds the following new line under “Institutional Uses” in the correct alphabetical order:

“

Child Day Care Facility Conversion Dwelling	Conditional	2.2.8
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”; and

- (b) in section 2.2, adds the following new section 2.2.8 in the correct numerical order:

“2.2.8 Child day care facility conversion dwelling is subject to the regulations, variations and relaxations that apply to:

- (a) single detached house, when the child day care facility conversion dwelling was converted from a single detached house; and
- (b) single detached house with secondary suite, when the child day care facility conversion dwelling was converted from a single detached house with secondary suite.”.

6. In the RT-3 district schedule and the RT-8 district schedule, Council:

- (a) in section 2.1, adds the following new line under “Institutional Uses” in the correct alphabetical order:

“

Child Day Care Facility Conversion Dwelling	Conditional	2.2.10
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”; and

- (b) in section 2.2, adds the following new section 2.2.10 in the correct numerical order:

“2.2.10 Child day care facility conversion dwelling is subject to the regulations, variations and relaxations that apply to:

- (a) single detached house, when the child day care facility conversion dwelling was converted from a single detached house; and
- (b) single detached house with secondary suite, when the child day care facility conversion dwelling was converted from a single detached house with secondary suite.”.

7. In the R3 districts schedule, Council:

- (a) in section 2.1, adds the following new line under “Institutional Uses” in the correct alphabetical order:

“

Child Day Care Facility Conversion Dwelling	Conditional	2.2.12
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”; and

- (b) in section 2.2, adds the following new section 2.2.12 in the correct numerical order:

“2.2.12 Child day care facility conversion dwelling is subject to the regulations, variations and relaxations that apply to:

- (a) single detached house, when the child day care facility conversion dwelling was converted from a single detached house; and
- (b) single detached house with secondary suite, when the child day care facility conversion dwelling was converted from a single detached house with secondary suite.”.

8. In the RT-9 district schedule and the RM-10 district schedule, Council:

- (a) in section 2.1, adds the following new line under “Institutional Uses” in the correct alphabetical order:

“

Child Day Care Facility Conversion Dwelling	Conditional	2.2.14
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”; and

- (b) in section 2.2, adds the following new section 2.2.14 in the correct numerical order:

“2.2.14 Child day care facility conversion dwelling is subject to the regulations, variations and relaxations that apply to:

- (a) single detached house, when the child day care facility conversion dwelling was converted from a single detached house; and
- (b) single detached house with secondary suite, when the child day care facility conversion dwelling was converted from a single detached house with secondary suite.”.

9. In the RT-11 district schedule and the RM-9 and RM-9B districts schedule, Council:

- (a) in section 2.1, adds the following new line under “Institutional Uses” in the correct alphabetical order:

“

Child Day Care Facility Conversion Dwelling	Conditional	2.2.15
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”; and

- (b) in section 2.2, adds the following new section 2.2.15 in the correct numerical order:

“2.2.15 Child day care facility conversion dwelling is subject to the regulations, variations and relaxations that apply to:

- (a) single detached house, when the child day care facility conversion dwelling was converted from a single detached house; and
- (b) single detached house with secondary suite, when the child day care facility conversion dwelling was converted from a single detached house with secondary suite.”.

10. In the RM-1 district schedule, the RM-2 district schedule, the RM-3 district schedule, the RM-3A district schedule, and the RM-4 district schedule, Council:

- (a) in section 2.1, adds the following new line under “Institutional Uses” in the correct alphabetical order:

“

Child Day Care Facility Conversion Dwelling	Conditional	2.2.9
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”; and

(b) in section 2.2, adds the following new section 2.2.9 in the correct numerical order:

“2.2.9 Child day care facility conversion dwelling is subject to the regulations, variations and relaxations that apply to:

- (a) single detached house, when the child day care facility conversion dwelling was converted from a single detached house; and
- (b) single detached house with secondary suite, when the child day care facility conversion dwelling was converted from a single detached house with secondary suite.”.

11. In the RM-7 and RM-7A districts schedule and the RM-11 district schedule, Council:

(a) in section 2.1, adds the following new line under “Institutional Uses” in the correct alphabetical order:

“

Child Day Care Facility Conversion Dwelling	Conditional	2.2.17
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”; and

(b) in section 2.2, adds the following new section 2.2.17 in the correct numerical order:

“2.2.17 Child day care facility conversion dwelling is subject to the regulations, variations and relaxations that apply to:

- (a) single detached house, when the child day care facility conversion dwelling was converted from a single detached house; and
- (b) single detached house with secondary suite, when the child day care facility conversion dwelling was converted from a single detached house with secondary suite.”.

12. In the RM-8 and RM-8A districts schedule and the RM-12 district schedule, Council:

(a) in section 2.1, adds the following new line under “Institutional Uses” in the correct alphabetical order:

“

Child Day Care Facility Conversion Dwelling	Conditional	2.2.19
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”; and

(b) in section 2.2, adds the following new section 2.2.19 in the correct numerical order:

“2.2.19 Child day care facility conversion dwelling is subject to the regulations, variations and relaxations that apply to:

- (a) single detached house, when the child day care facility conversion dwelling was converted from a single detached house; and
- (b) single detached house with secondary suite, when the child day care facility conversion dwelling was converted from a single detached house with secondary suite.”.

13. In the First Shaughnessy District (FSD) district schedule, Council:

- (a) in section 2.1, adds the following new line under “Institutional Uses” in the correct alphabetical order:

“

Child Day Care Facility Conversion Dwelling	Conditional	2.2.7
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”; and

- (b) in section 2.2, adds the following new section 2.2.7 in the correct numerical order:

“2.2.7 Child day care facility conversion dwelling is subject to the regulations, variations and relaxations that apply to:

- (a) single detached house, when the child day care facility conversion dwelling was converted from a single detached house; and
- (b) single detached house with secondary suite, when the child day care facility conversion dwelling was converted from a single detached house with secondary suite.”.

14. In the R4 districts schedule, the R5 districts schedule, and the RT-7 district schedule, Council:

- (a) in section 2.1, adds the following new line under “Institutional Uses” in the correct alphabetical order:

“

Child Day Care Facility Conversion Dwelling	Conditional	2.2.13
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”; and

- (b) in section 2.2, adds the following new section 2.2.13 in the correct numerical order:

“2.2.13 Child day care facility conversion dwelling is subject to the regulations, variations and relaxations that apply to:

- (a) single detached house, when the child day care facility conversion dwelling was converted from a single detached house; and
- (b) single detached house with secondary suite, when the child day care facility conversion dwelling was converted from a single detached house with secondary suite.”.

15. In section 2.2.4 of the RT-5 district schedule and the RT-11 district schedule, Council strikes out “or single detached house with secondary suite” and substitutes “, single detached house with secondary suite, or child day care facility”.

16. In section 2.2.6 of the RM-7 and RM-7A districts schedule, section 2.2.5 of the RM-8 and RM-8A districts schedule, section 2.2.3 of the RM-9 and RM-9B districts schedule, and section 2.2.4 of the RM-9A district schedule, Council strikes out “or a single detached house with secondary suite” and substitutes “, a single detached house with secondary suite, or a child day care facility”.

17. In section 3.11(b) of the RM-7 and RM-7A districts schedule, section 3.10(b) of the RM-8 and RM-8A districts schedule, section 3.9(b) of the RM-9 and RM-9B districts schedule, and section 3.8(b) of the RM-9A district schedule, Council adds “or child day care facility” after “above”.

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

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

ENACTED by Council this day of 2026

Mayor

City Clerk

EXPLANATION**A By-law to amend Zoning and Development Fee By-law No. 5585
regarding patios for non- dwelling uses**

On November 26, 2025, Council instructed staff to report back with by-law and policy amendments to eliminate the development permit requirement for seasonal, unenclosed patio structures. The proposed by-law amendment eliminates the development permit fee for seasonal unenclosed patios but retains the requirement for a development permit to be administered through a streamlined process. Staff considers this to be consistent with the direction to reduce cost barriers for business, while maintaining the City's ability to track patio locations and collect information that may support future policy evaluation, program monitoring, and potential expansion.

Director of Legal Services
February 24, 2026

EXPLANATION

A By-law to amend CD-1 (409) By-law No. 8439

Following the Public Hearing on January 15, 2026, Council resolved to amend CD-1 (409) for 1109-1139 West Pender Street and 1122-1152 West Hastings Street (Formerly 1128 West Hastings Street) to increase the total maximum permitted floor space ratio. The Director of Planning has advised that there are no prior to conditions, and enactment of the attached By-law will implement Council's resolution.

Director of Legal Services
February 24, 2026

EXPLANATION**A By-law to amend Street Name By-law No. 4054
regarding the naming of various street extensions**

Enactment of the attached by-law will name several street extensions in the Marpole Transit Centre Development and New St. Paul's Hospital Development. The street names are extensions of existing street names and are not new. These names are consistent with City naming policies and guidelines which call for a continuous street name system to better ensure public safety.

Director of Legal Services
February 24, 2026

BY-LAW NO.

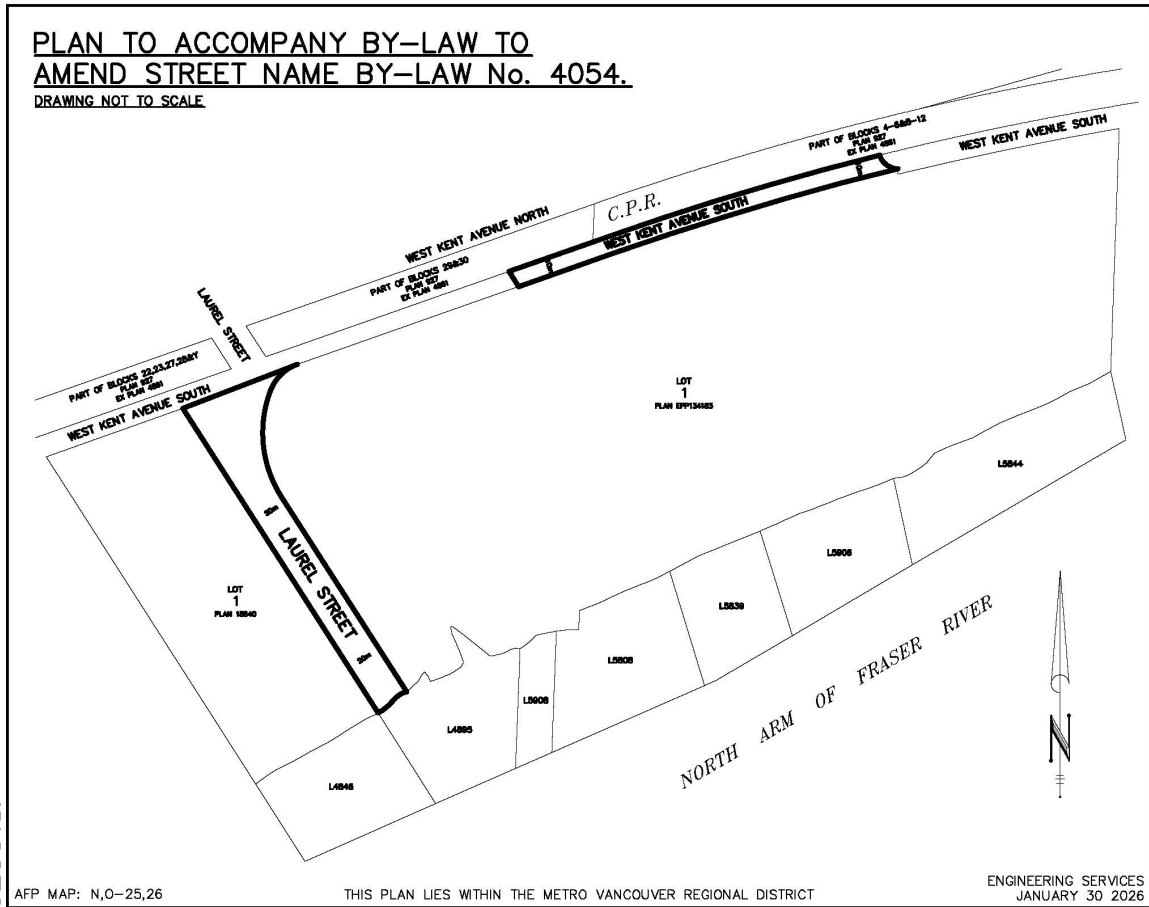
**A By-law to amend Street Name By-law No. 4054
regarding the naming of various street extensions
in the Marpole Transit Centre Development and
New St. Paul's Hospital Development**

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

1. Council amends By-law No. 4054 by:
 - (a) assigning the name "West Kent Avenue South" to that portion of public street labelled on the plan marginally numbered LF12270, attached to and forming part of this by-law as Appendix A;
 - (b) adding to the "Official Street Name Map of the City of Vancouver", which is the plan marginally numbered L325, attached to and forming part of By-law No. 4054, that portion of public street named "West Kent Avenue South" located as shown on the plan marginally numbered LF12270.
 - (c) assigning the name "Laurel Street" to that portion of public street labelled on the plan marginally numbered LF12270, attached to and forming part of this by-law as Appendix A; and
 - (d) adding to the "Official Street Name Map of the City of Vancouver", which is the plan marginally numbered L325, attached to and forming part of By-law No. 4054, that portion of public street named "Laurel Street" located as shown on the plan marginally numbered LF12270.
 - (e) assigning the name "Dunlevy Avenue" to that portion of public street labelled on the plan marginally numbered LF12271, attached to and forming part of this by-law as Appendix B;
 - (f) adding to the "Official Street Name Map of the City of Vancouver", which is the plan marginally numbered L325, attached to and forming part of By-law No. 4054, that portion of public street named "Dunlevy Avenue" located as shown on the plan marginally numbered LF12271.
 - (g) assigning the name "Atlantic Street" to that portion of public street labelled on the plan marginally numbered LF12271, attached to and forming part of this by-law as Appendix B; and
 - (h) adding to the "Official Street Name Map of the City of Vancouver", which is the plan marginally numbered L325, attached to and forming part of By-law No. 4054, that portion of public street named "Atlantic Street" located as shown on the plan marginally numbered LF12271.

**PLAN TO ACCOMPANY BY-LAW TO
AMEND STREET NAME BY-LAW No. 4054.**

DRAWING NOT TO SCALE



L12270

L12270

AFP MAP: N,O-25,26

THIS PLAN LIES WITHIN THE METRO VANCOUVER REGIONAL DISTRICT

ENGINEERING SERVICES
JANUARY 30 2026

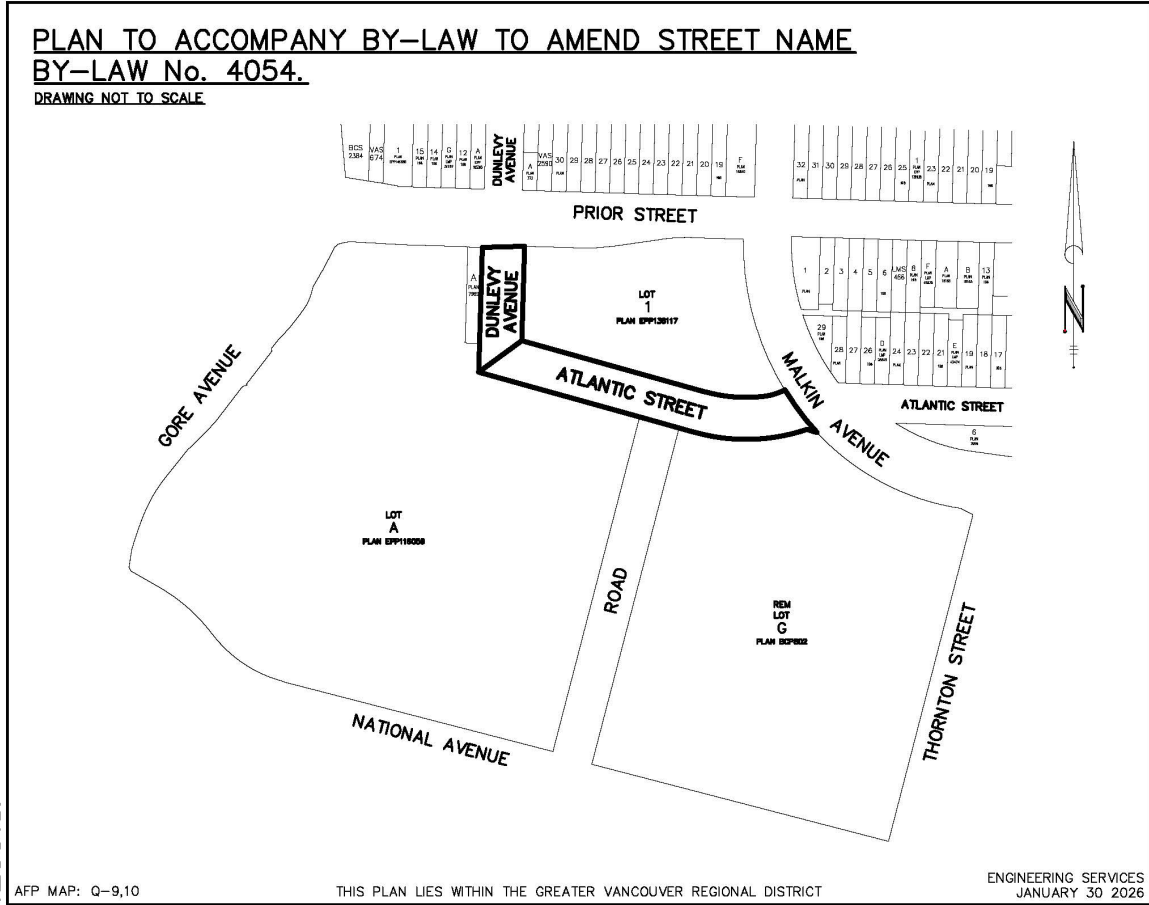
Y:\LAND_SURVEY\AFP\2025\DWG\L12270 - Street Name - Laurel - S Kent.dwg

Appendix B

PLAN TO ACCOMPANY BY-LAW TO AMEND STREET NAME

BY-LAW No. 4054.

DRAWING NOT TO SCALE



LF12271

LF12271

AFF MAP: Q-9,10

THIS PLAN LIES WITHIN THE GREATER VANCOUVER REGIONAL DISTRICT

ENGINEERING SERVICES
JANUARY 30 2026

Y:\LAND_SURVEY\AFF\2026\DWG\LF12271 - Street Name - Atlantic - Dunlevy.dwg

EXPLANATION

A By-law to amend the Sign By-law Regarding Electronic Video Sign at 897 Granville Street

After the Council meeting on September 16, 2025, Council gave conditional approval to amend the Sign By-law for this site. The Director of Legal Services has advised that all prior to conditions have been met, and enactment of the attached by-law will implement Council's resolution.

Director of Legal Services
February 24, 2026

EXPLANATION

**A By-law to amend the
Vancouver Development Cost Levy By-law No. 9755
Regarding Rental Development Relief Program**

Enactment of this by-law will correct a timing error and is consistent with Council direction.

Director of Legal Services
February 24, 2026

EXPLANATION**A By-law to amend Fire By-law No. 14419
regarding appointments**

The attached by-law will correct an error in the Fire By-law ensuring that Council designates fire inspectors and fire investigators in accordance with the Fire Safety Act.

Director of Legal Services
February 24, 2026

BY-LAW NO. _____

**A By-law to amend Fire By-law No. 14419
regarding appointments**

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

1. This by-law amends the indicated provisions of the Fire By-law No. 14419.
2. Council strikes section 1.4.1.7 of Division C of the Fire By-law and replaces it as follows:

“1.4.1.7 Designation of Fire Inspectors and Fire Investigators

- 1) Council designates all fire prevention inspectors, fire investigators, fire suppression officers, fire chiefs and firefighters as fire inspectors under section 8 of the Fire Safety Act.
 - 2) Council designates all fire investigators as fire investigators under section 23 of the Fire Safety Act.”
3. This by-law comes into force and takes effect upon enactment.

ENACTED by Council this _____ day of _____, 2026

Mayor

City Clerk

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 1302 – 1318 E 12th Avenue**

After a public hearing on May 7, 2024, Council approved in principle the land owner's application to rezone the above noted property from RM-11N (Residential) District to CD-1 (Comprehensive Development) District, subject to a number of conditions, including a condition that the owner of these lands first 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 securing approximately 33 secured market rental residential units for a term equal to the longer of 60 years and the life of the building, and subject to other conditions referenced in the minutes of public hearing for May 7, 2024.

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
February 24, 2026



1. Application

Chen & Leung, Barristers and Solicitors
 1530 - 1200 West 73rd Avenue
 Vancouver BC V6P 6G5
 6042648331

88587 PL/AAL/cw
 Housing Agreement

2. Description of Land

PID/Plan Number	Legal Description
032-705-247	LOT 1 LOT A BLOCK 171 DISTRICT LOT 264A GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP113137

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)

XGX APARTMENTS LTD., NO.BC1299303

6. Transferee(s)

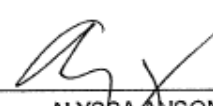
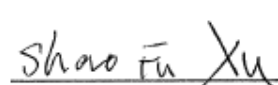
CITY OF VANCOUVER
 453 WEST 12TH AVENUE
 VANCOUVER BC V5Y 1V4

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 style="text-align: center;">Witnessing Officer Signature</p> <div style="text-align: center;">  <hr style="width: 100%;"/> <p>ALYSSA ANSON LEUNG <i>Lawyer & Solicitor</i> #1530 - 1200 West 73rd Avenue Airport Square Vancouver, B.C. V6P 6G5 Telephone: (604) 264-8331</p> </div>	<p style="text-align: center;">Execution Date</p> <div style="text-align: center; border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <p>YYYY-MM-DD</p> <p style="font-size: 1.5em; font-family: cursive;">2025-11-20</p> </div>	<p style="text-align: center;">Transferor / Transferee / Party Signature(s)</p> <p>XGX APARTMENTS LTD. By their Authorized Signatory</p> <div style="text-align: center;">  <hr style="width: 100%;"/> <p>Shaofu Xu</p> </div>
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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 style="text-align: center;">Witnessing Officer Signature</p> <div style="text-align: center;"> <hr style="width: 100%;"/> </div>	<p style="text-align: center;">Execution Date</p> <div style="text-align: center; border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <p>YYYY-MM-DD</p> </div>	<p style="text-align: center;">Transferor / Transferee / Party Signature(s)</p> <p>CITY OF VANCOUVER By their Authorized Signatory</p> <div style="text-align: center;"> <hr style="width: 100%;"/> <p>Name:</p> </div>
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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*, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.

TERMS OF INSTRUMENT - PART 2

HOUSING AGREEMENT AND BUILDING USE COVENANT SECURED MARKET RENTAL HOUSING

Introduction

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- (I) the Transferor, XGX APARTMENTS LTD., is herein called the “Owner”, as more particularly defined in Section 1.1(r); and
 - (II) the Transferee, CITY OF VANCOUVER, is herein called the “City”, as more particularly defined in Section 1.1(c);
- B. The Owner is the registered and beneficial owner of the Lands;
- C. The Owner made an application to rezone the Lands from RM-11N (Residential) District to CD-1 (Comprehensive Development) District to increase the maximum floor space ratio from 1.70 to 3.21 and the maximum building height from 13.7 m. to 24.18 m. to permit the development of one six-storey mixed-use building containing approximately 33 secured market rental residential units with commercial space on the ground floor (the “Development”), and after a public hearing to consider the rezoning application, the rezoning application was approved by City Council, in principle, subject to, *inter alia*, fulfilment of the condition that, prior to enactment of the rezoning bylaw (the “Rezoning Bylaw”), the Owner:
- “2.7 *Make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement and a Section 219 Covenant to secure all residential units as secured market rental housing units, excluding Senior Supportive or Assisted Housing, pursuant to the Grandview-Woodland Community Plan, for a term equal to the longer of 60 years and the life of the building, subject to a no-separate-sales covenant and a no-stratification covenant, a provision that none of such units will be rented for less than one month at a time, and such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may require.*
- Note to Applicant: This condition will be secured by a Housing Agreement to be entered into by the City at by-law enactment pursuant to Section 565.2 of the Vancouver Charter and a Section 219 Covenant.”*
- D. The Owner is entering into this Agreement to satisfy the foregoing conditions.

Consideration

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:

Terms of Agreement

ARTICLE 1 DEFINITIONS AND INTERPRETATION

- 1.1 Definitions. Terms defined in this Section 1.1, unless specifically otherwise provided in this Agreement, will have the following meanings:
- (a) "Agreement" means this housing agreement and building use covenant, including the foregoing recitals and all schedules hereto;
 - (b) "Building Permit" means any building permit issued by the City authorizing the building of a New Building as contemplated by the Rezoning Bylaw and the Development Permit;
 - (c) "City" means the City of Vancouver as a corporate entity;
 - (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 of Vancouver" means, save only for its use in Section 1.1(c), the City of Vancouver as a geographical location;
 - (f) "City Personnel" means any and all of the City's elected and appointed officials, officers, employees, agents, contractors, subcontractors, nominees, delegates, licensees, permittees and volunteers;
 - (g) "Development" means the development on the Lands described in Recital C as contemplated by the Rezoning Bylaw and approved by a Development Permit;
 - (h) "Development Permit" means any development permit issued by the City authorizing the development of any portion of the Lands contemplated by the Rezoning Bylaw;
 - (i) "Director of Legal Services" means the chief administrator, from time to time, of the City's Legal Services Department and his or her successors in function and their respective nominees;
 - (j) "Dwelling Unit" has the meaning ascribed to such term in the City's *Zoning and Development By-law No. 3575*, as may be amended or replaced from time to time;
 - (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 or 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 the City of Vancouver and legally described in Item 2 of the General Instrument - Part 1 to which these Terms of Instrument - Part 2 are attached, and includes any parcels into which such land is consolidated or further subdivided;
- (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 Rezoning Bylaw and any Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Rezoning Bylaw and any 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 Transferor, XGX APARTMENTS LTD., and any successors in title to the Lands or any portion thereof;
- (s) “Owner’s Personnel” means all of the Owner’s employees, agents, contractors, subcontractors, nominees, delegates, licensees, permittees and volunteers;
- (t) “Related Person” means, where the registered or beneficial owner of the Rental Housing Units is:
 - (i) a corporation (as that term is defined in the *Business Corporations Act*, S.B.C. 2002, c. 57), then a Related Person is:
 - (A) an officer, director or shareholder of such corporation or of another entity which is a shareholder of such corporation; or
 - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder referred to in Section 1.1(t)(i)(A); and
 - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (u) “Rental Housing” means a Dwelling Unit which is not occupied by the registered or beneficial owner of the same or by a Related Person, but which is

made available by such owner to the general public, at arm's length, for use as rental accommodation, excluding Senior Supportive or Assisted Housing (as defined in the *City's Zoning and Development Bylaw*), on a month-to-month basis or longer in accordance with this Agreement, reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto, including, without limitation, residential tenancy and human rights legislation in British Columbia;

- (v) "Rental Housing Units" means the new units of Rental Housing to be contained within the New Building upon its completion, as part of the Development, which units (including the quantity thereof) will comply with the Rezoning Bylaw, the terms of this Agreement, the Development Permit, the Building Permit and all applicable City bylaws and policies, and "Rental Housing Unit" means any one of them;
- (w) "Rental Housing Units Air Space Parcel" has the meaning ascribed to such term in Section 3.1(a);
- (x) "Replacement Rental Housing Unit" has the meaning ascribed to such term in Section 2.1(c) and "Replacement Rental Housing Units" means all of such units;
- (y) "*Residential Tenancy Act*" means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, as may be amended or replaced from time to time;
- (z) "Rezoning Bylaw" has the meaning ascribed to such term in Recital C;
- (aa) "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; and
- (bb) "*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 bylaw includes and is a reference to such statute or bylaw and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any statute, bylaw and regulations that may be passed which have the effect of supplementing or superseding such statutes, bylaws 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 the Rental Housing Units, all to the satisfaction of the City;
 - (c) when the New Building is completed and an Occupancy Permit has been issued and thereafter throughout the Term, all of the Rental Housing Units in the New Building will be used only for the purpose of providing Rental Housing in accordance with the terms of this Agreement, and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building, then then it will promptly take all steps reasonably necessary to enable it to repair the New Building or build a replacement building or buildings on the Lands, which repaired or replacement building(s) on the Lands (together with any remaining undestroyed or undemolished building) will also contain not less than the same

number and type of replacement Rental Housing Units (each such replacement Rental Housing Unit hereinafter referred to as a "Replacement Rental Housing Unit") as the New Building formerly contained, which replacement Rental Housing Units will also be used only for the purpose of providing Rental Housing in accordance with the terms of this Agreement and the applicable bylaws of the City and which Replacement Rental Housing Units will be subject, for the remaining duration of the Term, to the same use restriction as the Rental Housing Units are pursuant to this Agreement;

- (d) throughout the Term, it will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) for a term of less than one month at a time;
- (e) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) to be sold or otherwise transferred unless title to every one of the Rental Housing Units (or Replacement Rental Housing Units, as applicable) is sold or otherwise transferred together and as a block to the same legal or beneficial owner, as applicable, and subject to Section 7.7(a);
- (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, subject to ARTICLE 3;
- (g) throughout the Term, that any sale of any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) in contravention of the covenant in Section 2.1(e), and any subdivision of the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(f), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (h) throughout the Term, it will keep and maintain the New Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings in the City of Vancouver;
- (i) if the New Building, or any part thereof, is damaged during the Term, it will promptly restore and repair the same whenever and as often as damage occurs, to a state and condition that is equal to or greater than the state and condition thereof as existed before such damage occurred; and
- (j) throughout the Term, it will insure, or cause to be insured, the New Building to the full replacement cost against perils normally insured against in the City of Vancouver by reasonable and prudent owners of similar buildings and lands.

ARTICLE 3
SUBDIVISION OF THE LANDS AND THE NEW BUILDING

3.1 Subdivision. Notwithstanding Section 2.1(f):

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

3.2 Air Space Parcel. If the Lands are subdivided by way of an air space plan whereby the Rental Housing Units are contained with the Rental Housing Units Air Space Parcel and the remainder of the Lands is contained with the remainder or is further subdivided, the Owner shall, as a condition of the subdivision of the Lands by way of air space plan (and prior to any subdivision of the remainder), be required to register a reciprocal air space parcel easement agreement in form satisfactory to the City setting out the respective obligations of the owner the Rental Housing Units Air Space Parcel and the owner(s) of the remainder of the Lands whereby, without limitation:

- (a) the owner of the Rental Housing Units Air Space Parcel shall be responsible for performing the covenants and obligations of the Owner herein as they pertain to the Rental Housing Units Air Space Parcel;
- (b) the owner(s) of the remainder will be responsible for performing the covenants and obligations of the Owner as they pertain to the remainder; and

- (c) primary responsibility for the maintenance and repair of and insurance for common areas and facilities (including, without limitation, the building envelope and roof) will be assigned to one of the owners;
- (d) the owner of the Rental Housing Units Air Space Parcel and the owner of the remainder will pay equitable shares of the costs of maintenance and repair of and insurance for common areas and facilities; and
- (e) the obligation to replace the Rental Housing Units under Section 2.1(c) will apply where the owner of the Rental Housing Units Air Space Parcel and the owner of the remainder have reached a decision to rebuild the Building or if a new development is to be constructed on the Lands, subject always to the City's development permit process and requirements.

ARTICLE 4 ENFORCEMENT

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

ARTICLE 5 RELEASE AND INDEMNITY

- 5.1 **Release and Indemnity.** Subject to Section 5.3, the Owner covenants and agrees as follows:

- (a) it 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 hereunder; or
 - (ii) that otherwise arise out of, or would not have been incurred but for this Agreement,

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

to the extent that such Losses are the result of any gross negligence or wrongful intentional acts by the City or City Personnel; and

- (b) 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 of any or all of the City's rights hereunder 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 hereunder; 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 to the extent that such Losses are the result of any gross negligence or wrongful intentional acts by the City or City Personnel.

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

5.3 Conduct of Proceedings.

- (a) In the event that a claim is made against the City which, pursuant to the terms of this Agreement, requires the Owner to indemnify the City or City Personnel, then the City will give notice of such claim to the Owner and, subject to Section 5.3(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.

(b) Section 5.3(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 5.3(a) in the following circumstances:

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

provided however that if the City wishes to settle any claim, the City will not do so without the prior consent of the Owner, which consent will not be unreasonably withheld. In conducting any defence or making any settlement, the City will act in a manner reasonably consistent with the manner in which the City would act in connection with the defence or settlement of claims, suits, demands, actions or proceedings which would not be indemnified against under the provisions of this Section 5.3(b).

(c) Regardless of whether the claim is being defended under Section 5.3(a) or Section 5.3(b), the party having conduct of the proceedings will, upon written request of the other party, provide to the other party all information in its possession relating to the proceedings which may be properly disclosed at law. If the party not having conduct of the proceedings so requests in writing in a timely fashion, the party having conduct of the proceedings will join the other party as a third party to the proceedings.

5.4 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, BC 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:

XGX APARTMENTS LTD.
5685 College Highroad
Vancouver, BC V6T 1H1
Attention: Shaofu Xu

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

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

(d) if personally delivered, on the date when delivered,

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

ARTICLE 7 MISCELLANEOUS

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

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

(a) contained in any grant from His Majesty the King in Right of the Province of British Columbia respecting the Lands;

(b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of enactment of the Rezoning Bylaw 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.

- 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.**
- (a) 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(a) will apply equally to all subsequent purchasers/transferees (other than the transfer of an interest in the Lands by way of mortgage).
 - (b) Subject to Section 7.7(a), neither the Owner nor any successor in title to the Lands shall be liable for breaches of or non-observance or non-performance of covenants herein occurring as the same relate to any portion of the Lands after it has ceased to be the registered owner of such portion of the Lands, but the Owner or its successors in title, as the case may be, shall remain liable after

ceasing to be the registered owner of any portion of the Lands for all breaches of and non-observance and non-performance of covenants herein as the same relate to such portion of the Lands that occurred prior to the Owner or any successor in title, as the case may be, ceasing to be the registered owner of such portion of the Lands

- 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, bylaws, 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 General Instrument - Part 1 to which these Terms of Instrument - Part 2 are attached.

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 6486 Chester Street**

The owner of these lands has applied to rezone them to enable it to develop development of a one-level public utility building for telecommunications purposes and a six-storey residential rental building containing 116 units, all of which will be secured as for-profit affordable rental housing, and following public hearing on November 13, 2025, Council approved this rezoning subject to a number of conditions, including a condition that the owner execute a Housing Agreement (to thereafter be entered into by the City by by-law enacted pursuant to Section 565.2 of the *Vancouver Charter*) in respect of all dwelling units in the development on the terms and conditions set forth in the minutes of the public hearing:

A Housing Agreement has been accepted and signed by the owner applicant and its mortgagees. Enactment of the attached By-law, as required by section 565.2 of the *Vancouver Charter*, will complete the process to implement Council's resolution regarding a Housing Agreement.

Director of Legal Services
February 24, 2026

Schedule A



Land Title Act

Charge

General Instrument – Part 1

1. Application

**Megan Sedmak, Paralegal
Fasken Martineau DuMoulin LLP
2900 - 550 Burrard Street
Vancouver BC V6C 0A3
6046313131**

2. Description of Land

PID/Plan Number	Legal Description
007-693-621	LOT A BLOCK 2 DISTRICT LOT 662 PLAN 15183

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Section 219 Covenant Entire Instrument

4. Terms

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

5. Transferor(s)

TL FAIRFAX PROPERTY INC., NO.BC1465848

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
2026-01-27

TL Fairfax Property Inc.
By their Authorized Signatory

Name: ANDREW VOYSEY

JENNIFER NGUYEN
Barrister & Solicitor
Fasken Martineau DuMoulin LLP
2900 - 550 Burrard Street
Vancouver, BC V6C 0A3
604 631 2735

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

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
FOR-PROFIT AFFORDABLE RENTAL HOUSING
6486 Chester Street

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- (i) the Transferor, TL FAIRFAX PROPERTY 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 owner of the Lands;
- C. The Owner made an application to rezone the Lands from R1-1 (Residential) District to CD-1 (Comprehensive Development) District (the "Rezoning Application") to permit the development of a six-storey residential rental building containing 116 units and a one-level public utility building for telecommunications purposes, be approved in principle, and after public hearing the City approved the Rezoning Application 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* securing all residential units in the New Building as for-profit affordable rental housing units pursuant to Section 3.1A of the Vancouver DCL By-law for the longer of 60 years and life of the New Building, and subject to other conditions set forth in the minutes of the said public hearing; and
- D. 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;

#318164428v4<CANADA> - TL FAIRFAX PROPERTY INC. - Rezoning - Housing Agreement (For-Profit Affordable Rental Housing) (re DCL By-law Section 3.1A(e), C

- (b) **"Building Permit"** means any building permit issued by the City authorizing the building of a New Building as contemplated by the Rezoning By-law and the Development Permit;
- (c) **"City"** and **"City of Vancouver"** have the meaning ascribed to those terms in Recital A(ii);
- (d) **"City Manager"** means the chief administrator from time to time of the City and 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 Rezoning By-law;
- (g) **"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;
- (h) **"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;
- (i) **"Effective Date"** means the date as of which this Agreement has been executed by all parties to it;
- (j) **"Existing Building"** means the building situated on the Lands as of the date of this Agreement and which will be replaced by the New Building, as contemplated by the Rezoning Application;
- (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, provided however that if the Lands are at any time subdivided (including by strata plan or air space parcel subdivision), and this Agreement is thereafter discharged from one or more of the resulting legal parcels, then "Lands" will thereafter mean only the part of the Lands within the legal parcel(a) against which it remains registered;
- (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 Rezoning By-law and 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 Rezoning By-law and 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 TL FAIRFAX PROPERTY 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) **"Rezoning Application"** has the meaning ascribed to that term in Recital C;
- (z) **"Rezoning By-law"** means the CD-1 by-law enacted upon satisfaction of the prior-to conditions imposed by the City following, and as a result of, the Rezoning Application;
- (aa) **"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;
- (bb) **"Vancouver"** has the meaning ascribed to that term in Recital A(ii);
- (cc) **"Vancouver Charter"** means the Vancouver Charter, S.B.C. 1953, c. 55, and all amendments thereto and re-enactments thereof; and
- (dd) **"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 the number of 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;

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- (d) not less than 35% of the For-Profit Affordable Rental Housing Units will have two or more bedrooms and be designed to meet the City's High Density Housing for Families with Children Guidelines;
- (e) 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;
- (f) 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;
- (g) 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/or beneficial owner, as applicable;
- (h) 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 For-Profit Affordable Rental Housing Units are contained within one strata lot or one airspace parcel. Following such a subdivision and the issuance of an occupancy permit for such one strata lot or one airspace parcel, upon request of the Owner, the City covenants and agrees to execute and deliver a partial discharge of this Agreement with respect to any legal parcel other than the one containing all of the For-Profit Affordable Rental Housing Units, provided that:
 - (i) the Director of Legal Services is satisfied that such discharge will not unreasonably alter, restrict or limit the City's rights and the Owner's agreements and obligations pursuant to this Agreement;
 - (ii) any such discharge will be in form and substance acceptable to the Director of Legal Services and will be prepared by the Owner at its cost;
 - (iii) the City will have a reasonable amount of time to execute and return any such discharge; and
 - (iv) the preparation and registration of any such discharge will be without cost to the City;
- (i) throughout the Term, that any sale of any For-Profit Affordable Rental Housing Unit in contravention of the covenant in Section 2.1(g), 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(h), 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;

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- (j) 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, reasonable wear and tear excepted;
- (k) 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;
- (l) 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;
- (m) 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
- (n) 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 Dwelling 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 Dwelling 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 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 For-Profit Affordable 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 For-Profit Affordable Rental Housing Units in accordance with this Agreement and the Development Permit; and

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(For-Profit Affordable Rental Housing) (re DCL By-law Section 3.1A(e), C

- (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 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 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 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

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- (b) provide evidence of the insurance required to be taken out pursuant to Section 2.1(l).

**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; 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, except to the extent such Losses are caused by the gross negligence or wrongful intentional acts or omissions of the City or City Personnel; and

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

- (i) this Agreement;
- (ii) the City or City Personnel:
 - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - B. withholding any permit pursuant to this Agreement;
 - C. performing any work in accordance with the terms of this Agreement or requiring the owner to perform any work pursuant to this Agreement; or
 - D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement or 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, except to the extent such Losses are caused by the gross negligence or wrongful intentional acts or omissions of the City or City Personnel.

- (c) 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 7 will remain effective, and survive any modification of, or partial release or release of the covenants created by this Agreement, and any termination of this Agreement, whether by fulfilment of the covenants contained in this Agreement or otherwise, provided that, for certainty, the Owner will not be liable for failing to comply with any obligation set out in this Agreement, or any Losses incurred by the City or City Personnel, solely relating or arising in relation to any period after which the Owner ceases to be the registered owner of the Lands.

ARTICLE 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 12th Avenue
Vancouver, British Columbia

V5Y 1V4

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

If to the Owner, addressed to:

TL Fairfax Property Inc.
c/o 2900 - 550 Burrard Street
Vancouver, British Columbia
V6C 0A3

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 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.
- 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 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.
- 9.4 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.
- 9.5 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

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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.

- 9.6 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.
- 9.7 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*.
- 9.8 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(g) and 2.1(h), 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. Following execution and delivery of the acknowledgement and assumption agreement to the City, the Owner shall be released and shall have no further liability for matters under this Agreement solely relating or arising in relation to any period after the assumption date, to the extent that such matters are completely assumed by the transferee, but for greater certainty, the Owner will remain liable for any matters solely relating or arising in relation to any period prior to the assumption date. The provisions in this Section 9.8 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).
- 9.9 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

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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.

9.10 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: 3282 - 3296 East 1st Avenue / 1725 Rupert Street**

After a public hearing on October 22, 2024, Council approved in principle the land owner's application to amend the text of CD-1 (50) (Comprehensive Development) District By-law No. 4379, 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 securing the development units as for-profit affordable rental housing was approved by Council under By-law No. 14407 and registered on title to the development lands under land title registration numbers CB2343596- CB2343597 (the "**Original Housing Agreement**").

This Owner has elected to amend the development to contemplate securing the development as secured market rental housing in lieu of for-profit affordable rental housing and to forego the Class B Waiver available under the Vancouver Development Cost Levy By-law (No. 9755).

The new 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. Upon registration of this new Housing Agreement on title to the development lands, the City will seek a repeal of By-law No. 14407 to effect a discharge of the Original Housing Agreement.

Director of Legal Services
February 24, 2026

BY-LAW NO.

**A By-law to enact a Housing Agreement
for 3282 - 3296 East 1st Avenue / 1725 Rupert 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:

010-256-938

Lot A (Explanatory Plan 9638) Block 80 Section 30 Town
of Hastings Suburban Lands Plan 8174

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 24 day of February, 2026

Mayor

City Clerk



1. Application

**Spagnuolo LLP
300 - 906 Roderick Avenue
Coquitlam BC V3K 1R1
604777419**

2. Description of Land

PID/Plan Number	Legal Description
010-256-938	LOT A (EXPLANATORY PLAN 9638) BLOCK 80 SECTION 30 TOWN OF HASTINGS SUBURBAN LANDS PLAN 8174

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Section 219 Covenant, Entire Instrument
PRIORITY AGREEMENT		Priority Agreement granting the Section 219 Covenant herein priority over MortgagesCA6967751 and Assignment of Rents CA6967752

4. Terms

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

5. Transferor(s)

THE POOR ITALIAN RISTORANTE LTD. , NO.BC1234927
BEEM CREDIT UNION , NO.F195, AS TO PRIORITY ONLY

6. Transferee(s)



**CITY OF VANCOUVER
453 WEST 10TH 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>Brian P. Kaminski Barrister & Solicitor 300 - 906 Roderick Avenue Coquitlam BC V3K 1R1</p>	<p>Execution Date</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <p>YYYY-MM-DD</p> <p>2026-02-04</p> </div>	<p>Transferor / Transferee / Party Signature(s)</p> <p>The Poor Italian Ristorante Ltd. By their Authorized Signatory</p>  <p>Michael Moscone, President</p> <p>Sandro Moscone, Secretary</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; width: fit-content; margin: 0 auto;"> <p>YYYY-MM-DD</p> </div>	<p>Transferor / Transferee / Party Signature(s)</p> <p>Beem Credit Union AS TO PRIORITY ONLY By their Authorized Signatory</p> <p>_____</p> <p>Name & Title:</p> <p>_____</p> <p>Name & Title:</p>
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Officer Certification

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Witnessing Officer Signature <hr/> Brian P. Kaminski Barrister & Solicitor 300 - 906 Roderick Avenue Coquitlam BC V3K 1R1	Execution Date <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD 2026-02-04 </div>	Transferor / Transferee / Party Signature(s) The Poor Italian Ristorante Ltd. By their Authorized Signatory <hr/> Michael Moscone, President <hr/> Sandro Moscone, Secretary
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Officer Certification

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

Witnessing Officer Signature  <hr/> VICTORIA SWEETMAN A Commissioner for taking affidavits in British Columbia Beem Credit Union 300-678 Bernard Avenue, Kelowna BC V1Y 6P3 My Commission Expires February 28, 2027	Execution Date <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD 2026-02-04 </div>	Transferor / Transferee / Party Signature(s) Beem Credit Union AS TO PRIORITY ONLY By their Authorized Signatory  <hr/> Name & Title: Malcom Dunn Director, Commercial Operations and Partnerships <hr/> Name & Title:
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Officer Certification

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



Land Title Act
Charge
General Instrument – Part 1

Witnessing Officer Signature

Execution Date

YYYY-MM-DD

Transferor / Transferee / Party Signature(s)

CITY OF VANCOUVER
By their Authorized Signatory

Name & Title:

Name & Title:

Officer Certification

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

Electronic Signature

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

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

3282 - 3296 East 1st Avenue / 1725 Rupert Street

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- I. the Transferor, THE POOR ITALIAN RISTORANTE LTD., is called the "Owner", as more particularly defined in Section 1.1(q); and
 - II. the Transferee, CITY OF VANCOUVER, is called the "City" or the "City of Vancouver" when referring to corporate entity continued under the *Vancouver Charter*, and "Vancouver" when referring to geographic location;
- B. The Owner is the registered and beneficial owner of the Lands;
- C. The Owner made an application to amend the text of CD-1 (50) (Comprehensive Development) District By-law No. 4379 to increase the maximum floor space ratio (FSR) from 0.4 to 3.5 and the maximum building height from 4.6 m (15 ft.) to 22.9 m (75 ft.), to permit the development of a six-storey mixed-use residential building containing 63 rental units with commercial space on the ground floor (the "Rezoning By-law"), and after public hearing the City approved the application for the Rezoning By-law 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* securing all residential units in the New Building as for-profit affordable rental housing units pursuant to Section 3.1A of the Vancouver DCL By-law for the longer of 60 years and life of the New Building, and subject to other conditions set forth in the minutes of the said public hearing and entered into a housing agreement registered on title under Registration Numbers CB2343596-97 to secure the foregoing condition;
- D. Subsequent to enactment of the Rezoning By-law, the Owner elected to amend the development to contemplate secured market rental housing in lieu of for-profit affordable rental housing and to forego the DCL Class B Waiver available under the prior condition;
- E. As a condition of discharging the first housing agreement, and approval of the current Development Permit application, the Owner must enter into a Housing Agreement and a Section 219 Covenant securing 63 residential units, as secured market rental housing, excluding Seniors Supportive or Independent Living Housing, for a term equal to the longer of 60 years and the life of the building, subject to the following additional conditions:
- (a) A no separate-sales covenant.
 - (b) A no stratification covenant.
 - (c) That none of the units are to be rented for less than 90 consecutive days at a time; and

January 26, 2025
#4861758v1

Housing Agreement and Building Use Covenant
1725 Rupert Street

- (d) 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

F. Accordingly, the Owner is entering into this Agreement to satisfy the foregoing conditions.

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

ARTICLE 1 DEFINITIONS AND INTERPRETATION

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

- (a) **“Agreement”** means this housing agreement and building use covenant, including the foregoing recitals and all schedules hereto;
- (b) **“Building Permit”** means any building permit issued by the City authorizing the building of a New Building as contemplated by the Development Permit;
- (c) **“City”** and **“City of Vancouver”** have the meaning ascribed to those terms in Recital A(ii);
- (d) **“City Manager”** means the chief administrator from time to time of the City and her successors in function and their respective nominees;
- (e) **“City Personnel”** means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (f) **“Development”** means the development on the Lands described in Recital C and approved by a Development Permit;
- (g) **“Development Permit”** means any development permit issued by the City authorizing the development of any portion of the Lands contemplated by the Rezoning By-law;
- (h) **“Director of Legal Services”** means the chief administrator from time to time of the City’s Legal Services Department and her/his successors in function and their respective nominees;
- (i) **“Dwelling Unit”** has the meaning set out in the City’s Zoning and Development By-law No. 3575, as may be 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) **“General Manager of Planning, Urban Design and Sustainability”** means the chief administrator from time to time of the City’s Planning, Urban Design and Sustainability Department and her/his successors in function and their respective nominees;
- (l) **“Land Title Act”** means the *Land Title Act*, R.S.B.C. 1996, c. 250, as may be amended or replaced from time to time;
- (m) **“Lands”** means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the General Instrument - Part 1, and includes any parcels into which such land is consolidated or further subdivided;
- (n) **“Losses”** means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, judgements, builders liens, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (o) **“New Building”** means any new building or structure to be built on the Lands and any building or structure on the Lands being renovated, upgraded or refurbished as contemplated by any Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by any Development Permit;
- (p) **“Occupancy Permit”** means a permit issued by the City authorizing the use and occupation of any New Building, development or partial development on the Lands issued after the Effective Date;
- (q) **“Owner”** means the registered owner of the Lands as of the Effective Date, namely THE POOR ITALIAN RISTORANTE LTD., and its successors and permitted assigns;
- (r) **“Owner’s Personnel”** means any and all of the contractors, subcontractors, employees, agents, licensees, invites and permittees of the Owner;
- (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, excluding Seniors Supportive or Assisted Housing (as defined in the City's *Zoning and Development By-law*), 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" has the meaning ascribed to that term in Section 2.1(c), 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) "Rezoning" means the rezoning of the Lands as described in Recital C;
- (y) "Rezoning By-law" has the meaning ascribed to it in Recital C;
- (z) "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;
- (aa) "Vancouver" has the meaning ascribed to that term in Recital A(ii);
- (bb) "*Vancouver Charter*" means the *Vancouver Charter*, S.B.C. 1953, c. 55, as may be amended or replaced from time to time; and
- (cc) "*Zoning and Development By-law*" means the City's *Zoning and Development By-law* No. 3575, as 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 the number of 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 Rental Housing (the “**Rental Housing Units**”) in accordance with the terms of this Agreement, and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the Final Occupancy permit for the New Building, then then it will promptly take all steps reasonably necessary to enable it to repair the New Building or build a replacement building or buildings on the Lands, which repaired or replacement building(s) on the Lands (together with any remaining undestroyed or undemolished building) will also contain not less than the same number and type of replacement

Rental Housing Units as the New Building formerly contained, which replacement Rental Housing Units will also be used only for the purpose of providing Rental Housing (each such replacement Rental Housing Unit hereinafter referred to as a "Replacement Rental Housing Unit"), in accordance with the terms of this Agreement and the applicable by-laws of the City 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 90 consecutive days 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;
- (f) throughout the Term, it will not suffer, cause or permit, the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided, whether by subdivision plan, strata plan or otherwise, without the prior written consent of the Director of Legal Services which consent may be arbitrarily withheld; provided, however, the Owner may, without obtaining any such consent, subdivide the Lands by strata plan or airspace subdivision plan so long as all of the Rental Housing Units are contained within one strata lot or one airspace parcel, respectively;
- (g) throughout the Term, that any sale of any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) in contravention of the covenant in Section 2.1(e), and any subdivision of the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(f), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (h) throughout the Term, it will keep and maintain the New Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings;
- (i) if the New Building, or any part thereof, is damaged during the Term, it will promptly restore and repair the same whenever and as often as damage occurs, to a state and condition that is equal to or greater than the state and condition thereof as existed before such damage occurred; and
- (j) throughout the Term, it will insure, or cause to be insured, the New Building to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands.

**ARTICLE 3
ENFORCEMENT**

3.1 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 4
RELEASE AND INDEMNITY**

4.1 **Release and Indemnity.** Subject to Section 4.2, the Owner hereby:

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

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

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

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

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

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

(i) this Agreement;

(ii) the City or City Personnel:

- (A) reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;

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

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

The indemnities in this ARTICLE 4 will be both personal covenants of the Owner and integral parts of the Section 219 Covenant granted in this Agreement.

4.2 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 4.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 4.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 4.2(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 4.2(b).

- (c) Regardless of whether the claim is being defended under Section 4.2(a) or Section 4.2(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.

4.3 Survival of Release and Indemnities. The release and indemnities in this ARTICLE 4 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 5 NOTICES

5.1 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:

The Poor Italian Ristorante Ltd.
4025 1st Avenue
Burnaby, British Columbia V5C 3W5

Attention: President

- (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 6
MISCELLANEOUS**

6.1 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.

6.2 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.

6.3 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.

6.4 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.

6.5 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.

6.6 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.

6.7 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 6.7 will apply equally to all subsequent purchasers/transferees (other than the transfer of an interest in the Lands by way of mortgage).

6.8 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.

6.9 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.

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

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

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) **"Existing Charges"** means the Mortgages registered under numbers CA6967751 and CB2409843 and the Assignments of Rents registered under numbers CA6967752 and CB2409844;
- (b) **"Existing Chargeholder"** means BEEM CREDIT UNION;
- (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

January 26, 2025
#4861758v1

Housing Agreement and Building Use Covenant
1725 Rupert Street

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 3362-3384 Vanness Avenue and 3347 Clive Avenue**

After a public hearing on February 17, 2026, Council approved in principle the land owner's application to rezone the above noted property to amend CD-1 (899) (Comprehensive Development) District By-law No. 14333 subject to, among other things, a new Housing Agreement (the "**New 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 New Housing Agreement is intended to replace the existing housing agreement (registered at the Land Title Office under registration No. CB1989461) that was a condition for the enactment of CD-1 (899) By-law No. 14333 and provides for, among other things, all residential units to be secured rental units with 20% of the residential floor area secured as below-market rental housing units. The New 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
February 24, 2026



1. Application

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

File no. 505177

2. Description of Land

PID/Plan Number	Legal Description
032-497-326	LOT A BLOCKS 154, 155 AND 156 DISTRICT LOT 37 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP144353

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Entire Instrument Section 219 Covenant
PRIORITY AGREEMENT		granting the section 219 covenant registered under the number that is one less than this priority agreement priority over mortgage CB1583727 and assignment of rents CB1583728

4. Terms

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

5. Transferor(s)

**INTRACORP VANNESS NOMINEE LTD., NO.BC1431335
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
2026-02-09

INTRACORP VANNESS NOMINEE LTD.
By their Authorized Signatory

LEAH CATHERINE BLEAKLEY
A Commissioner for Taking Affidavits
for British Columbia
600 - 550 Burrard Street, Vancouver, BC V6C 2B5
Commission Expiry: 2027-04-30

Name: EVAN ALLEGRETTO

Officer Certification

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

Witnessing Officer Signature

Execution Date

Transferor / Transferee / Party Signature(s)

YYYY-MM-DD

CITY OF VANCOUVER
By their Authorized Signatory

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

ELIZA YEE KI LIN
A Commissioner for Taking Affidavits
for British Columbia
84th Floor, 650 West Georgia Street
Vancouver, BC V6B 4N7
Commission Expiry Date: May 31, 2028

Execution Date

YYYY-MM-DD
2026-02-11

Transferor / Transferee / Party Signature(s)

THE BANK OF NOVA SCOTIA
By their Authorized Signatory

Name: **Ariel Wang**
Director
Real Estate Banking

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

3362-3384 VANNESS AVENUE AND 3347 CLIVE AVENUE

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- (i) the Transferor, **INTRACORP VANNESS NOMINEE LTD.**, is called the "Owner", as more particularly defined in Section 1.1; and
 - (ii) the Transferee, City of Vancouver, is called the "City" or the "City of Vancouver" when referring to corporate entity continued under the *Vancouver Charter*, and "Vancouver" when referring to geographic location;
- B. The Owner is the registered owner of the Lands;
- C. As a condition of enactment of the Original Rezoning By-law (as defined in Section 1.1), the Owner entered into a housing agreement with the City securing all of the residential units as secured rental housing units with at least 10 percent of the residential floor area that is counted in the calculation of the dwelling unit area per the Rezoning By-law secured as Below Market Rental Housing Units, for the longer of 60 years and life of the New Building (the "**Original Housing Agreement**"), which Original Housing Agreement was registered against title to the Lands in the Land Title Office on April 16, 2025 under registration number CB1989461 (together with a Housing Agreement Notice registered under registration number CB1989463);
- D. The Owner made an application (the "**Text Amendment Application**") to make a text amendment (upon enactment, the "**Text Amendment**") to the Original Rezoning By-law in respect of the Lands and after a public hearing to consider the Text Amendment Application, the Text Amendment was approved by City Council in principle, subject to, among other things, fulfilment of the condition that, prior to enactment of the Text Amendment, 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 dwelling unit area per the Rezoning By-law (as defined in Section 1.1) 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 Buildings, and subject to other conditions set forth in the minutes of the public hearing (collectively, the "**Housing Condition**"); and
- E. The Owner is entering into this Agreement to satisfy the Housing Condition.

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

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

**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 dwelling unit area in accordance with the Rezoning By-law consisting of Dwelling Units with average rents per unit type that meet the requirements of Section 2.1(o) of this Agreement, which Dwelling Units are made available for rent only to Eligible Persons in accordance with this Agreement;
- (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) **"Development Permit"** means any development permit issued by the City authorizing the development of the Lands contemplated by the Rezoning By-law;
- (l) **"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;
- (m) **"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;
- (n) **"Effective Date"** means the date as of which this Agreement has been executed by all parties to it;
- (o) **"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;

- (p) **“Existing Building”** means the building(s) situated on the Lands as of the date of this Agreement and which will be replaced by the New Buildings, as contemplated by the Rezoning Application;
- (q) **“For-Profit Affordable Rental Housing”** means multiple Dwelling Units within a building for use as Rental Housing which meet the requirements of Section 3.1A of the Vancouver DCL By-law to be “Class A for-profit affordable rental housing” (as defined therein);
- (r) **“For-Profit Affordable Rental Housing Units”** has the meaning ascribed to that term in Section 2.1(c) and **“For-Profit Affordable Rental Housing Unit”** means any one of such units;
- (s) **“General Manager of Planning, Urban Design and Sustainability”** means the person appointed from time to time as the City’s General Manager of Planning, Urban Design and Sustainability and his/her successors in function and delegates and their respective nominees;
- (t) **“Income”** of an Occupant means the total annual world-wide income before income tax from all sources of the Occupant and includes without limitation, the following income sources:
- (i) income assistance;
 - (ii) employment, including regular overtime, vacation pay and gratuities;
 - (iii) self-employment, including commission sales;
 - (iv) seasonal employment;

- (v) Employment Insurance and WorkSafe BC insurance;
- (vi) training allowances;
- (vii) income from the Resettlement Assistance Program;
- (viii) child support, maintenance payments or support from family/friends/community;
- (ix) rental income from real estate or dividends from stocks or bonds, if the real monthly Income is greater than the imputed Income from the Asset; and
- (x) pension incomes including:
 - (A) old Age Security, Guaranteed Income Supplement, Allowance, and Allowance for the Survivor (formerly Spousal Allowance);
 - (B) senior's supplement;
 - (C) private pension plans including Registered Retirement Income Funds;
 - (D) Canada Pension Plan, including retirement, disability, orphans, widows, disability for child, etc.
 - (E) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada; 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;
- (u) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
- (v) "**Lands**" means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the Form C - General Instrument - Part 1, and includes any parcels into which such land is consolidated or further subdivided;
- (w) "**Losses**" means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, judgements, builders liens, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (x) "**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 and "**New Buildings**" means all of such buildings or structures;
- (y) "**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;
- (z) "**Occupants**" means persons for whom a For-Profit Affordable Rental Housing Unit serves as their Principal Residence and an "**Occupant**" means any one of them, as the context requires;
- (aa) "**Original Housing Agreement**" has the meaning ascribed to that term in Recital C;
- (bb) "**Original Rezoning By-law**" means the CD-1 (Comprehensive Development) District (899) By-law No. 14333;
- (cc) "**Owner**" means the registered owner of the Lands as of the Effective Date, namely, Intracorp Vanness Nominee Ltd., and its successors and assigns;
- (dd) "**Owner's Personnel**" means any and all of the officers, directors, employees, agents, nominees, delegates, permittees, contractors and subcontractors of the Owner;
- (ee) "**Personal Information Protection Act**" means the *Personal Information Protection Act*, S.B.C. 2003, c.63, and all amendments thereto and re-enactments thereof;
- (ff) "**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;

- (gg) **"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;
- (hh) **"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;
- (ii) **"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;
- (jj) **"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;
- (kk) **"Residential Tenancy Act"** means the *Residential Tenancy Act* S.B.C. 2002, c. 78 and all amendments thereto and re-enactments thereof;
- (ll) **"Residential Tenancy Regulation"** means the *Residential Tenancy Regulation*, B.C. Reg. 477/2003 and all amendments thereto and re-enactments thereof;
- (mm) **"Returning Tenants"** means the eligible tenants of the Existing Building who accept the Owner's offer to relocate to the New Buildings after completion of its construction, pursuant to the Owner's Tenant Relocation Plan and **"Returning Tenant"** means any one of them;

- (nn) **"Rezoning Application"** means the Owner's application to rezone the Lands from CD-1 (201) (Comprehensive Development) District and CD-1 (218) (Comprehensive Development) District to a new CD-1 (Comprehensive Development) District;
- (oo) **"Rezoning By-law"** means the Original Rezoning By-law, as amended by the Text Amendment;
- (pp) **"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;
- (qq) **"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;
- (rr) **"Tenancy Agreement"** means a residential tenancy agreement, lease, licence or other agreement prepared in accordance with the *Residential Tenancy Act*, granting rights to occupy a Below-Market Rental Housing Unit;
- (ss) **"Tenant"** means an Eligible Person who is a tenant of a Below-Market Rental Housing Unit by way of a Tenancy Agreement;
- (tt) **"Tenant Relocation and Protection Policy"** means, collectively, the Tenant Relocation and Protection Policy approved by City Council on December 10, 2015, as amended on June 11, 2019 and as may be further amended from time to time hereafter;
- (uu) **"Tenant Relocation Plan"** means the Owner's Tenant Relocation Plan submitted and approved by the General Manager of Planning, Urban Design and Sustainability, in accordance with the Tenant Relocation and Protection Policy;
- (vv) **"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 For-Profit Affordable Rental Housing Units; and
 - (ii) the date as of which the New Buildings are demolished or substantially destroyed;
- (ww) "**Text Amendment**" has the meaning ascribed to that term in Recital D;
- (xx) "**Text Amendment Application**" has the meaning ascribed to that term in Recital D;
- (yy) "**Vancouver**" has the meaning ascribed to that term in Recital A(ii);
- (zz) "**Vancouver Charter**" means the *Vancouver Charter* S.B.C. 1953, c. 55, and all amendments thereto and re-enactments thereof; and
- (aaa) "**Vancouver DCL By-law**" means the City's Vancouver Development Cost Levy By-law No. 9755, and all amendments thereto and re-enactments thereof.

1.2 Interpretation. In this Agreement:

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

- (g) Time. Time will be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time will be local Vancouver, British Columbia time.
- (h) Replacement of Original Housing Agreement. For greater certainty, upon the discharge from title of the Original Housing Agreement, this Agreement will supersede and replace the Original Housing Agreement and the Original Housing Agreement will be of no further force or effect.

**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 Buildings, that throughout the Term:
- (a) the Lands, the New Buildings 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) when and if the Owner carries out the development on the Lands after the date of this Agreement as contemplated in the Development Permit, at its sole cost and expense, it will construct, fit and finish the New Buildings, 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 Buildings 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 dwelling unit area of all New Buildings in accordance with the Rezoning By-law 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 a New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit for such New Building, then the Owner will promptly take all steps reasonably necessary to enable it to repair such New Building or build a replacement building or buildings on the Lands, which repaired or replacement building(s) built on the Lands (together with all remaining undestroyed or undemolished building (s) on the Lands) will also contain not less than the same number and type of Dwelling Units as such 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 for 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 the circumstances specified in 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) one or more clauses providing that the Tenant acknowledges and agrees that, among other terms, the following are material terms of the Tenancy Agreement:
- I. the Tenant is and will remain 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 to such assignment or subletting and the Tenant acknowledges that it will not be unreasonable for the Owner to do so, if the assignee or sublessee is not an Eligible Person or if the Tenant receives a fee for such assignment or subletting or if 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) notwithstanding the Owner's covenants under this Section 2.1(e), it will not be a breach of the Owner's covenants under this Section 2.1(e) if the Owner has complied with Section 2.1(g) and an Eligible Tenant occupying a Below Market Rental Housing Unit ceases to be an Eligible Tenant or breaches any of the material terms described in Section 2.1(e)(v)(D) without the Owner being aware of such loss of eligibility or breach. 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 Owner becomes aware that 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) taking all reasonable steps within the control of the Owner to cause 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 a breach of the terms 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 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 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, other than month-to-month extensions of tenancies upon the expiry of a term pursuant to the *Residential Tenancy Act*;
- (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 beneficial or registered title, as applicable, to every one of the For-Profit Affordable Rental Housing Units is sold or otherwise transferred together and as a block to the same beneficial or legal owner, as the case may be (provided such legal owner(s) may be different from such beneficial owner(s) in the transaction) and subject to Section 9.8;
- (j) the Owner will not suffer, cause or permit, the Lands or the New Buildings (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, except for any subdivision (including airspace subdivision) contemplated in the Rezoning By-law or the Development Permit or as required by the City, 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 Buildings (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 Buildings and all parts thereof in good repair and in a safe, clean, neat and tidy condition, reasonable wear and tear excepted, to the standard of a reasonable and prudent owner of similar buildings;
- (m) if the New Buildings, or any part thereof, are 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 Buildings 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) the initial rental rate for each tenancy of a Below-Market Rental Housing Unit will not exceed an amount that is 15% below the private apartment average rents for the City of Vancouver applicable to the respective unit type according to the CMHC Rental Market Survey:
 - (A) for the initial tenancy, most recently published at the time when the Occupancy Permit 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 unit numbers, unit types, unit sizes and initial rents to be charged by the Owner to the first Tenants of each of the Below-Market Rental Housing Units in a 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 for such New Building;
 - (iii) 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 dwelling unit area of all New Buildings in accordance with the Rezoning By-law 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 obligated to) substitute and re-assign the designation of such Dwelling Unit as a Below-Market Rental Housing Unit to another Dwelling Unit in any 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 all New Buildings

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

- (iv) following the issuance of the Occupancy Permit, during a tenancy of a Below-Market Rental Housing Unit, the Owner shall not increase the rents for any of the Below-Market Rental Housing Units, 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), but 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 Buildings or a Below-Market Rental Housing Unit. 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); and
- (p) notwithstanding anything to the contrary herein, with respect to any For-Profit Affordable Rental Housing Unit rented to a Returning Tenant, the For-Profit Affordable Rental Housing Unit will:
 - (i) be of a unit type (number of bedrooms) in accordance with the Canada Mortgage and Housing Corporation's National Occupancy Standards, with discretion by the General Manager of Planning, Urban Design and Sustainability, upon written request by the Returning Tenant, to accommodate other family arrangements of the Returning Tenant;
 - (ii) have a starting rent that is:
 - (A) discounted by 20% of the market rent for the respective For-Profit Affordable Rental Housing Unit (except for Below-Market Rental Housing Units); or
 - (B) for Below-Market Rental Housing Units, if the Returning Tenant qualifies therefor, the rent that is applicable to such Returning Tenant and Below-Market Rental Housing Unit, as set out in Section 2.1(o)(i)(A); and
 - (iii) be a pet-friendly unit, if the Returning Tenant was occupying a pet-friendly Existing Unit.

2.2 Multiple Buildings.

- (a) The parties acknowledge that the Owner may (subject to obtaining all necessary Development Permits and Building Permits) redevelop the Lands by constructing New Buildings on a phased basis (such that the New Buildings are constructed on the Lands at different times (entirely or partially)), as follows:

- (i) a first phase consisting of the parkade, a portion of the shared podium and the first high-rise tower to be constructed on the Lands (collectively, “**Phase 1**”); and
 - (ii) a second phase consisting of the remainder of the shared podium and the second high-rise tower to be constructed on the Lands (“**Phase 2**”).
- (b) The parties agree that the Owner may allocate the total required Below Market Rental Housing for Phase 1 and Phase 2 (collectively, the “**Total Required Below Market Rental Housing**”) between Phase 1 and Phase 2 in such proportions as the Owner may determine such that none, some or all of the Total Required Below Market Rental Housing will be located in Phase 1 and the required Below Market Rental Housing to be located in Phase 2 will be equal to the Total Required Below Market Rental Housing less the Below Market Rental Housing located in Phase 1, provided that:
 - (i) if all of the Building Permit(s) for the construction of Phase 2 have not been issued by the time that the first Occupancy Permit for Phase 1 is issuable, then all of the Below Market Rental Housing required hereunder for Phase 1 will be located in Phase 1; and
 - (ii) if any Returning Tenants qualify to rent a Below Market Rental Housing Unit, in accordance with this Agreement, such Below Market Rental Housing Unit will be located in Phase 1.

**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 Buildings, that:
- (a) the Lands and the New Buildings will not be used or occupied except as follows:
 - (i) the Owner 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 rents 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, and the unit type mix and size shall comply with those applicable to the Below-Market Rental Housing Units in accordance with this Agreement and the Development Permit; and
 - (ii) the City will be under no obligation to issue any Building Permit 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 Buildings, that:
- (a) the Lands and the New Buildings will not be used or occupied except as follows:
 - (i) the Owner will not suffer or permit the occupation of a New Building and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit for such New Building 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, if any, in such New Building following issuance of the Occupancy Permit for such New Building and the unit type mix and size, which rents and unit type 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 the Occupancy Permit for a New Building, notwithstanding completion of construction of such New Building until such time as the Owner has complied with Section 4.1(a)(i) with respect to such New Building; 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 first New Building to be occupied 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 Buildings 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 Buildings 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 7 will remain effective, and survive any modification of, or partial release or release of the covenants created by this Agreement, and any termination of this Agreement, whether by fulfilment of the covenants contained in this Agreement or otherwise.

ARTICLE 8 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 12th Avenue
Vancouver, British Columbia
V5Y 1V4

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

If to the Owner, addressed to:

Intracorp Vanness Nominee Ltd.
Suite 600 - 550 Burrard Street
Vancouver, BC V6C 2B5

Attention: President

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

ARTICLE 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 Buildings or any part thereof in accordance with the provisions of Section 9.8, the parties agree that the covenants and agreements herein contained shall only be binding upon the transferring party in respect of a breach or acts or omissions occurring during its ownership.
- 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 dwelling unit area of all New Buildings in accordance with the Rezoning By-law 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 or occupied by an Eligible Person, for the remainder of the period that such Below-Market Rental Housing Unit is rented to the applicable Tenant.

For greater certainty, a finding by such judicial body that the termination notice was ineffective because the Below-Market Rental Housing Unit was not operated by, or on behalf of, a public housing body (as defined in the *Residential Tenancy Act*) will not be considered an error by or negligence of the Owner.

- 9.4 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.
- 9.5 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.
- 9.6 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.

- 9.7 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*.
- 9.8 Sale of Lands and New Building or Part Thereof. Concurrently with 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 Buildings 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 arising from and after the date of such sale or transfer. The provisions in this Section 9.8 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).
- 9.9 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.
- 9.10 Liability. Notwithstanding anything to the contrary contained herein, the Owner shall not be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Owner ceases to have any further interest in the Lands.

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

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

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) **"Existing Charges"** means the Mortgage registered under number CB1583727 and the Assignment of Rents registered under number CB1583728;
- (b) **"Existing Chargeholder"** means THE BANK OF NOVA SCOTIA;
- (c) **"New Charges"** means the Housing Agreement and Section 219 Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

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

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

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

END OF DOCUMENT

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 2110 West 5th Avenue**

After public hearing on September 18, 2025, Council approved in principle the land owner's application to rezone the above noted property from RM-4 (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
February 24, 2026

BY-LAW NO.

**A By-law to enact a Housing Agreement
for 2110 West 5th Avenue**

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

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

PID: 004-499-221	Lot 8 Block 264 District Lot 526 Plan 590
PID: 004-499-239	Lot 9 Block 264 District Lot 526 Plan 590
PID: 004-499-247	Lot 10 Block 264 District Lot 526 Plan 590

and which will be legally described as follows after subdivision:

EPP145996	Lot A Block 264 District Lot 526 Group 1 New Westminster District Plan EPP145996
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in substantially the form and substance of the Housing Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the agreement on behalf of the City, and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.

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

ENACTED by Council this day of , 2026

Mayor

City Clerk



Land Title Act

Charge

General Instrument – Part 1

1. Application

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

Ben Westertep (sce)
113849-178275
Housing Agreement & Building Use Covenant - West 5th Development

2. Description of Land

PID/Plan Number	Legal Description
EPP145996	LOT A BLOCK 264 DISTRICT LOT 526 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP145996

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)

W5 ARBUTUS HOLDINGS LTD., NO.BC1453518

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>BEN WESTERTERP <i>Barrister & Solicitor</i> 1600 - 925 WEST GEORGIA ST VANCOUVER, B.C. V6C 3L2 (604) 685-3456</p>	<p>Execution Date</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> YYYY-MM-DD 2026-02-09 </div>	<p>Transferor / Transferee / Party Signature(s)</p> <p>W5 ARBUTUS HOLDINGS LTD. By their Authorized Signatory</p>  <p>Name: <i>Meghan W</i></p>  <p>Name: <i>Sam W</i></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; width: fit-content; margin: 0 auto;"> YYYY-MM-DD </div>	<p>Transferor / Transferee / Party Signature(s)</p> <p>CITY OF VANCOUVER By their Authorized Signatory</p> <p>_____</p> <p>Name:</p> <p>_____</p> <p>Name:</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>Electronic Signature</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
SECURED RENTAL AND BELOW-MARKET RENTAL HOUSING
2110 WEST 5TH AVENUE

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- (i) the Transferor, W5 Arbutus Holdings Ltd., is called the "Owner", as more particularly defined in Section 1.1; and
 - (ii) the Transferee, City of Vancouver, is called the "City" or the "City of Vancouver" when referring to corporate entity continued under the *Vancouver Charter*, and "Vancouver" when referring to geographic location;
- B. The Owner is the registered owner of the Lands;
- C. The Owner made an application to rezone the Lands (the "Rezoning Application") from RM-4 (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 areas 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 By-law, 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 now 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:

Housing Agreement and Building Use Covenant
2110 West 5th Avenue

#1899309v2

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- (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 per unit type 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 Broadway 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) "**Development Permit**" means any development permit issued by the City at any time following the Effective Date of this Agreement authorizing the development on the Lands (or any portions of the Lands) as contemplated by the Rezoning By-law;

- (l) "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;
- (m) "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;
- (n) "Effective Date" means the date as of which this Agreement has been executed by all parties to it;
- (o) "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;

Housing Agreement and Building Use Covenant
2110 West 5th Avenue

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, provided always that a Returning Tenant will not be required to meet the conditions set out in subsections 1.1(o)(i), 1.1(o)(ii) or 1.1(o)(iii)(E) and will be deemed to be an Eligible Person if such Returning Tenant meets the balance of the conditions set out in this subsection 1.1(o);

- (p) **“Existing Building”** means the building situated on the Lands as of the date of this Agreement and which will be replaced by the New Building, as contemplated by the Rezoning Application;
- (q) **“Existing Units”** means the Dwelling Units in the Existing Building and **“Existing Unit”** means any one of them;
- (r) **“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;
- (s) **“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);
- (t) **“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;
- (u) **“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;
- (v) **“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;

Housing Agreement and Building Use Covenant
2110 West 5th Avenue

- (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;
- (w) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
- (x) "**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 to which these Terms of Instrument - Part 2 are attached, and includes any parcels into which such land is consolidated or further subdivided;
- (y) "**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;
- (z) "**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;
- (aa) "**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;
- (bb) "**Occupants**" means persons for whom a For-Profit Affordable Rental Housing Unit serves as their Principal Residence and an "**Occupant**" means any one of them, as the context requires;
- (cc) "**Owner**" means the registered owner of the Lands as of the Effective Date, namely, W5 ARBUTUS HOLDINGS LTD., and its successors and assigns;
- (dd) "**Owner's Personnel**" means any and all of the officers, directors, employees, agents, nominees, delegates, permittees, contractors and subcontractors of the Owner;
- (ee) "**Personal Information Protection Act**" means the *Personal Information Protection Act*, S.B.C. 2003, c.63, and all amendments thereto and re-enactments thereof;
- (ff) "**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;

- (gg) **"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;
- (hh) **"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;
- (ii) **"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;
- (jj) **"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;
- (kk) **"Residential Tenancy Act"** means the *Residential Tenancy Act* S.B.C. 2002, c. 78 and all amendments thereto and re-enactments thereof;
- (ll) **"Residential Tenancy Regulation"** means the *Residential Tenancy Regulation*, B.C. Reg. 477/2003 and all amendments thereto and re-enactments thereof;
- (mm) **"Returning Tenants"** means the eligible tenants of the Existing Building who accept the Owner's offer to relocate to the New Building after completion of its construction, pursuant to the Owner's Tenant Relocation Plan and **"Returning Tenant"** means any one of them;
- (nn) **"Rezoning Application"** has the meaning ascribed to that term in Recital C;
- (oo) **"Rezoning By-law"** has the meaning ascribed to that term in Recital C;

- (pp) **“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;
- (qq) **“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;
- (rr) **“Tenancy Agreement”** means a residential tenancy agreement, lease, licence or other agreement prepared in accordance with the *Residential Tenancy Act*, granting rights to occupy a Below-Market Rental Housing Unit;
- (ss) **“Tenant”** means an Eligible Person who is a tenant of a Below-Market Rental Housing Unit by way of a Tenancy Agreement;
- (tt) **“Tenant Relocation and Protection Policy”** means, collectively, the Tenant Relocation and Protection Policy approved by City Council on December 10, 2015, as amended on June 11, 2019 and as may be further amended from time to time hereafter and the Tenant Relocation and Protection Policy Bulletin dated Jun 19, 2019, as amended on June 30, 2024 and as may be further amended from time to time hereafter;
- (uu) **“Tenant Relocation Plan”** means the Owner’s Tenant Relocation Plan submitted and approved by the General Manager of Planning, Urban Design and Sustainability, in accordance with the Tenant Relocation and Protection Policy;
- (vv) **“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;

- (ww) "**Vancouver**" has the meaning ascribed to that term in Recital A(ii);
- (xx) "**Vancouver Charter**" means the *Vancouver Charter* S.B.C. 1953, c. 55, and all amendments thereto and re-enactments thereof; and
- (yy) "**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.
 - 1. 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.
- (e) 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.
- (f) 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

Housing Agreement and Building Use Covenant
2110 West 5th Avenue

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construction and use of the New Building, that throughout the Term:

- (a) the Lands, the New Building and the For-Profit Affordable Rental Housing Units (including the 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 for 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 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, except with respect to any prospective tenants or Tenants that are Returning Tenants, 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 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 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 and beneficial owner, as applicable, and subject to Section 9.8;
- (j) the Owner will not suffer, cause or permit, the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided, whether by subdivision plan, strata plan or otherwise, without the prior written consent of the Director of Legal Services which consent may 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, reasonable wear and tear excepted;
- (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) the initial rental rate for each tenancy of a Below-Market Rental Housing Unit will not exceed an amount that is 20% below the private apartment average rents for the City of Vancouver applicable to the respective unit type according to the CMHC Rental Market Survey:
 - (A) for the initial tenancy, most recently published at the time when the Occupancy Permit 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 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;

- (iii) 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 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
- (iv) 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; and
- (p) notwithstanding anything to the contrary herein, with respect to any For-Profit Affordable Rental Housing Unit rented to a Returning Tenant, the For-Profit Affordable Rental Housing Unit will:
 - (i) be of a unit type (number of bedrooms) in accordance with the Canada Mortgage and Housing Corporation's National Occupancy Standards, and in accordance with the Tenant Relocation Policy, with discretion by the General Manager of Planning, Urban Design and Sustainability, in respect of the household size of the Returning Tenant;
 - (ii) have a starting rent that will not exceed:

- (A) if the unit type of the For-Profit Affordable Rental Housing Unit in the New Building is the same as the unit type of the unit rented by the Returning Tenant in the Existing Building, the lesser of:
 - I. an amount that is 20% below the private apartment average rents for the City of Vancouver applicable to the respective unit type according to the CMHC Rental Market Survey; and
 - II. the current rent paid by the Returning Tenant for his or her tenancy of an Existing Unit at the time of the submission of the Rezoning Application and which may be increased by the allowable annual rent increase permitted under the *Residential Tenancy Act* between the date when the Rezoning Application was submitted and the date of initial occupancy of the For-Profit Affordable Rental Housing Unit; or
- (B) if the unit type of the For-Profit Affordable Rental Housing Unit in the New Building is different from the unit type of the Existing Unit, an amount that is 20% below the private apartment average rents for the City of Vancouver applicable to the respective unit type according to the CMHC Rental Market Survey; and
- (iii) be a pet-friendly unit, if the Returning Tenant was occupying a pet-friendly Existing 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

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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;

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- (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;

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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 the result of any gross negligence or wrongful intentional acts by the City or City Personnel; and

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

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

The indemnities in this ARTICLE 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.

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- (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

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- (b) if personally delivered, on the date when delivered.

If to the City, addressed to:

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

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

If to the Owner, addressed to:

W5 Arbutus Holdings Ltd.
801 - 161 East 4th Avenue
Vancouver, British Columbia
V5T 1G4

Attention: Andrew McMillan

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

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- (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 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.
- 9.5 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.
- 9.6 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.

- 9.7 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*.
- 9.8 Sale of Lands and New Building or Part Thereof. Prior to the sale or transfer of any legal or beneficial interest (other than the transfer of an interest by way of mortgage, where the mortgagee has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage), and subject always to Sections 2.1(i) and 2.1(j), the Owner of the Lands and the New Building will cause the purchaser/ transferee to enter into an assumption agreement with the City, in form and substance satisfactory to the Director of Legal Services, pursuant to which the purchaser/transferee will agree to be bound by all of the obligations, agreements and indemnities of such Owner under this Agreement. The provisions in this Section 9.8 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).
- 9.9 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 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.
- 9.10 Liability. Notwithstanding anything to the contrary contained herein, the Owner shall not be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Owner ceases to have any further interest in the Lands.
- 9.11 Enurement. This Agreement will enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement will enure to the benefit of and be binding upon the Owner and its successors and assigns.

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

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END OF DOCUMENT

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EXPLANATION

**A By-law to authorize the amendment of a
Housing Agreement Authorized by By-law No. 14225
Re: 625 Pacific Street, 777 Pacific Street and 1390 Granville Street
(Sub-Area C - 675 Pacific Street and 1395 Rolston Street)**

The Housing Agreement for 625 Pacific Street, 777 Pacific Street and 1390 Granville Street (Sub-Area C) (the “**Lands**”), which was authorized by By-law 14225 on December 10, 2024, was entered into as a condition of rezoning by-law enactment. At a public hearing, Vancouver City Council approved an amendment to the Housing Condition upon which the Housing Agreement was entered into and this amendment modifies the Housing Agreement accordingly.

The amendment to the Housing Agreement that necessitated this by-law has been agreed to by the land owner in accordance with section 565.2(4) of the Vancouver Charter.

Director of Legal Services
February 24, 2026

625 Pacific Street, 777 Pacific Street and 1390 Granville Street
(Sub-Area C - 675 Pacific Street and 1395 Rolston Street)

BY-LAW NO. _____

**A By-law to authorize the amendment of a
Housing Agreement Authorized by By-law No. 14225**

PREAMBLE

WHEREAS

Council has authority under the *Vancouver Charter* to amend an existing Housing Agreement with the consent of the owner of property;

AND WHEREAS

Pursuant to By-law No. 14225 enacted December 10, 2024 the City has entered into a Housing Agreement with the owner of certain properties bearing the civic addresses 625 Pacific Street, 777 Pacific Street and 1390 Granville Street (the "**Housing Agreement**") and thereafter the Housing Agreement was registered at the Land Title Office under registration number CB1805856; and

AND WHEREAS

The City and the owner now wishes to amend the Housing Agreement and all proposed amendments are acceptable to the City and the owner.

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

1. Council authorizes amendment of the Housing Agreement in substantially the form and substance of the modification agreement attached to this By-law as Schedule A and authorizes the Director of Legal Services to execute the modification 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. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.
3. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2026

Mayor

City Clerk



Land Title Act

Charge

General Instrument – Part 1

1. Application

**Jay Lancaster
City of Vancouver
453 West 12th Avenue
Vancouver BC V5Y 1V4
604-871-6925**

LS-26-00142
Granville Loops (Lot C)
675 Pacific Street / 1395 Rolston Street

2. Description of Land

PID/Plan Number	Legal Description
032-415-770	LOT C BLOCK 113 DISTRICT LOT 541 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP131478

3. Nature of Interest

Type	Number	Additional Information
MODIFICATION	CB1805856	

4. Terms

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

5. Transferor(s)

CITY OF VANCOUVER

6. Transferee(s)



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

7. Additional or Modified Terms



8. Execution(s)

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

Witnessing Officer Signature  _____ GINNY TSAI 453 WEST 12 TH AVENUE VANCOUVER, B.C. V5Y 1V4 BARRISTER & SOLICITOR	Execution Date YYYY-MM-DD <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> 2026-02-11 </div>	Transferor / Transferee / Party Signature(s) CITY OF VANCOUVER (as Transferor) By their Authorized Signatory  _____ JEFFREY M. GREENBERG
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Officer Certification

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

Witnessing Officer Signature _____	Execution Date YYYY-MM-DD <div style="border: 1px solid black; width: 100px; height: 60px; margin: 0 auto;"></div>	Transferor / Transferee / Party Signature(s) CITY OF VANCOUVER (as Transferee) By their Authorized Signatory _____
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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>Electronic Signature</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: 150px; height: 30px; margin: 0 auto;"></div>
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**TERMS OF INSTRUMENT - PART 2
MODIFICATION OF HOUSING AGREEMENT AND BUILDING USE COVENANT
SOCIAL HOUSING
(the "Modification")**

625 PACIFIC STREET, 777 PACIFIC STREET AND 1390 GRANVILLE STREET

Introduction

- A. The Transferor, CITY OF VANCOUVER, is called the "Owner";
- B. The Transferee, City of Vancouver, is called the "City" when referring to corporate entity and "City of Vancouver" when referring to geographic location;
- C. The Owner is the registered and beneficial owner of the Lands;
- D. On January 21, 2025 City Council enacted CD-1 (887) By-law No. 14237 which rezoned the Lands, *inter alia*, from DD (Downtown District) to CD-1 (Comprehensive Development) District, to permit the development of four sites with six buildings combined, with an overall increase in the permitted floor area from 53,858 sq. m (579,550 sq. ft.) to 86,403 m² (930,034 sf), with heights up to 121 m (395.3 ft.) for strata-titled, secured-market rental and social housing units, retail uses, and a childcare centre and to satisfy the conditions thereof, among other things, the Owner entered into a Housing Agreement and Building Use Covenant for Social Housing with the City which was registered at the Land Title Office on January 8, 2025 under registration number CB1805856 (the "Housing Agreement"), as approved by City Council under By-law No. 14225;
- E. The Owner made an application to amend CD-1 (887) By-law No. 14237 to permit certain changes to the use and development of the Lands, more particularly described in RTS 18623, and to satisfy the conditions thereof, *inter alia*, the Owner is required to amend the Housing Agreement are described herein; and
- F. The City and the Owner have agreed to enter into this modification agreement (the "Modification") to make amendments to the Housing Agreement.

Consideration

NOW THEREFORE THIS MODIFICATION WITNESSES that, in consideration of each party agreeing to modify the Housing Agreement as set out hereinafter and for good and valuable consideration (the receipt and sufficiency of which the parties hereto acknowledge and agree to), pursuant to Section 565.2 of the *Vancouver Charter* and Section 219 of the *Land Title Act*, the Owner and the City hereby covenant and agree as follows:

1. Definitions

All capitalized terms used in this Modification which are defined in the Housing Agreement will have the meaning ascribed to such terms in the Housing Agreement unless defined in this Modification or the context otherwise requires.

2. Modification of the Housing Agreement

#4868083v1

Modification of Housing Agreement
625 -777 Pacific Street & 1390 Granville Street (Granville Loops)
Lot C (675 Pacific Street / 1395 Rolston Street)

The Owner and the City agree that the Housing Agreement shall be amended by deleting Section 2.1(d) in its entirety and replacing it with the following:

- “(d) throughout the Term not less than 30% of the Social Housing Units will be:
- (i) occupied only by households with incomes below the then current applicable HIL; and
 - (ii) each rented at a rate no higher than 30% of the aggregate household income of the members of the household occupying such Social Housing Unit; and”.

3. Housing Agreement Ratified and Confirmed

Except as hereby expressly modified, the Housing Agreement is hereby ratified and confirmed by the City and the Owner to the effect and with the intent that the Housing Agreement and this Modification will be read and construed as one document.

4. Amendment

No alteration or amendment of the Housing Agreement or this Modification will have effect unless the same is in writing and duly executed by the parties to be charged.

5. Binding Effect

This Modification will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

6. Time

Time shall be of the essence of this Modification.

7. Conflict

In the event of any conflict between the terms and conditions of the Housing Agreement and the terms and conditions of this Modification, the terms and conditions of this Modification will prevail.

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

END OF DOCUMENT

#4868083v1

Modification of Housing Agreement
625 -777 Pacific Street & 1390 Granville Street (Granville Loops)
Lot C (675 Pacific Street / 1395 Rolston Street)

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 4288 Yew Street**

The Owner made an application with the City of Vancouver, as required under the *Strata Property Act*, to convert a previously occupied building within the Lands to strata title, and at a Council meeting on April 1, 2025, City Council approved the conversion in principle, subject to, *inter alia*, the Owner registering a Housing Agreement at the Land Title Office on title to the Lands securing the Dwelling Units in the Lands as rental housing for a term of ten (10) years from the date of initial occupancy, and 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
February 24, 2026



Land Title Act

Charge

General Instrument – Part 1

1. Application

Donna Dulaba, McCarthy Tétrault LLP
2400 - 745 Thurlow Street
Vancouver BC V6E 0C5
604-643-5870

File Nos. 108635-460816
Housing Agreement

2. Description of Land

PID/Plan Number	Legal Description
031-485-073	AIR SPACE PARCEL 2 DISTRICT LOT 526 GROUP 1 NEW WESTMINSTER DISTRICT AIR SPACE PLAN EPP108856

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Section 219 Entire Instrument
PRIORITY AGREEMENT		granting the above Covenant priority over Mortgage CA9315892 and Assignment of Rents CA9315893

4. Terms

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

5. Transferor(s)

ARBUTUS VILLAGE HOLDINGS LTD., NO.BC0351064
COMPUTERSHARE TRUST COMPANY OF CANADA, NO.A0052313, (AS TO PRIORITY)

6. Transferee(s)

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

7. Additional or Modified Terms



Land Title Act

Charge

General Instrument – Part 1

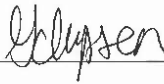
8. Execution(s)

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

Witnessing Officer Signature

Execution Date

Transferor / Transferee / Party Signature(s)



YYYY-MM-DD
2026-02-12

ARBUTUS VILLAGE HOLDINGS LTD.
By their Authorized Signatory



Print Name: Zaylin Lalji

GRACE SIMPSON
Barrister & Solicitor
McCarthy Tétrault LLP
SUITE 2400 - 745 THURLOW STREET
VANCOUVER, B.C. V6E 0C5

Print Name:

Officer Certification

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

Witnessing Officer Signature

Execution Date

Transferor / Transferee / Party Signature(s)

YYYY-MM-DD

CITY OF VANCOUVER
By their Authorized Signatory

Print Name:

Print Name:

Officer Certification

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



Land Title Act

Charge

General Instrument – Part 1

Witnessing Officer Signature

Execution Date

YYYY-MM-DD

Transferor / Transferee / Party Signature(s)

**COMPUTERSHARE TRUST COMPANY
OF CANADA**

By their Authorized Signatory

Print Name:

Print Name:

Officer Certification

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

Electronic Signature

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

TERMS OF INSTRUMENT - PART 2
HOUSING AGREEMENT AND BUILDING USE COVENANT
RENTAL HOUSING
4288 YEW STREET

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
 - I. the Transferor, ARBUTUS VILLAGE HOLDINGS LTD., is called the “Owner”, as more particularly defined in Section 1.1(p); 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 registered a Section 219 Covenant (the “BCHMC Covenant”) at the Land Title Office against title to the Lands under registration nos. CA5787111 to CA5787112 in favour of the British Columbia Housing Management Commission wherein the Owner agreed, *inter alia*, not to use the dwelling units therein except for rental purposes for a period of 10 years from the date that the Lands are first occupied (being the Term);
- D. The Owner made an application with the City of Vancouver, as required under the *Strata Property Act*, to convert a previously occupied building within the Lands to strata title, and at a Council meeting on April 1, 2025, City Council approved the conversion in principle, subject to, *inter alia*, the Owner registering a Housing Agreement at the Land Title Office on title to the Lands securing the Dwelling Units in the Lands as rental housing for the Term; and
- E. The Owner is 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, 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;

Housing Agreement and Building Use Covenant
4288 Yew Street

- (c) “**City**” and “**City of Vancouver**” have the meaning ascribed to those terms in Recital A(ii);
- (d) “**City Manager**” means the chief administrator from time to time of the City and her successors in function and their respective nominees;
- (e) “**City Personnel**” means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (f) “**Development**” means the development on the Lands described in Recital C and approved by a Development Permit;
- (g) “**Development Permit**” means Development Permit DP-2018-00896, being the Development Permit issued by the City authorizing the development of, *inter alia*, the Lands;
- (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 may be 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) “**General Manager of Planning, Urban Design and Sustainability**” means the chief administrator from time to time of the City’s Planning, Urban Design and Sustainability Department and her/his successors in function and their respective nominees;
- (l) “**Land Title Act**” means the *Land Title Act*, R.S.B.C. 1996, c. 250, as may be amended or replaced from time to time;
- (m) “**Lands**” means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the Form C - General Instrument - Part 1 to which these Terms of Instrument - Part 2 are attached, and includes any parcels into which such land is consolidated or further subdivided pursuant to the *Land Title Act* or *Strata Property Act*;
- (n) “**Losses**” means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, judgements, builders liens, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (o) “**New Building**” means any new building or structure to be built on the Lands and any building or structure on the Lands being renovated, upgraded or refurbished as contemplated by any Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the

Lands during the period of, and required for the purposes of, any construction contemplated by any Development Permit;

- (p) **“Owner”** means the registered owner of the Lands as of the Effective Date, namely **Arbutus Village Holdings Ltd.**, and its successors and permitted assigns;
- (q) **“Owner’s Personnel”** means any and all of the contractors, subcontractors, employees, agents, licensees, invites and permittees of the Owner;
- (r) **“Related Person”** means, where the registered or beneficial owner of the Rental Housing Units is:
 - (i) a corporation (as that term is defined in the *Business Corporations Act*, S.B.C. 2002, c. 57), then a Related Person is:
 - (A) an officer, director or shareholder of such corporation or of another entity which is a shareholder of such corporation; or
 - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder referred to in paragraph (A); and
 - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (s) **“Rental Housing”** means a Dwelling Unit which is not occupied by the registered or beneficial owner of the same or by a Related Person, but which is made available by such owner to the general public, at arm’s length, for use as rental accommodation, excluding Seniors Supportive or Assisted Housing (as defined in the *City’s Zoning and Development By-law*), in accordance with this Agreement, reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto, including, without limitation, residential tenancy and human rights legislation in British Columbia;
- (t) **“Rental Housing Units”** has the meaning ascribed to that term in Section 2.1(c), and **“Rental Housing Unit”** means any one of them;
- (u) **“Residential Tenancy Act”** means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, as may be amended or replaced from time to time;
- (v) **“Term”** means the term of this Agreement, which commenced on June 15, 2022 and will end on June 15, 2032;
- (w) **“Vancouver”** has the meaning ascribed to that term in Recital A(ii);
- (x) **“Vancouver Charter”** means the *Vancouver Charter*, S.B.C. 1953, c. 55, as may be amended or replaced from time to time; and
- (y) **“Zoning and Development By-law”** means the *City’s Zoning and Development By-law* No. 3575, as 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) throughout the Term, it will keep and maintain, at its sole cost and expense, the New Building containing 170 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) throughout the Term, all of the Dwelling Units in the New Building will be used only for the purpose of providing Rental Housing (the "Rental Housing Units") in accordance with the terms of this Agreement;
- (d) throughout the Term, it will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any Rental Housing Unit for a term of less than 90 consecutive days at a time;
- (e) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies or by way of a mortgage, it will not suffer, cause or permit, beneficial or registered title to any Rental Housing Unit to be sold or otherwise transferred unless title to every one of the Rental Housing Units is sold or otherwise transferred together and as a block to the same legal or beneficial owner, as applicable;
- (f) throughout the Term, it will not suffer, cause or permit, the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be further 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 deposit of Strata Plan EPS7652 in the Land Title Office;
- (g) throughout the Term, except as permitted under this Agreement, that any sale of any Rental Housing Unit in contravention of the covenant in Section 2.1(e), and any subdivision of the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(f), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (h) throughout the Term, it will keep and maintain the New Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings, reasonable wear and tear excepted, subject always to the *Residential Tenancy Act*;
- (i) if the New Building, or any part thereof, is damaged during the Term (and not demolished or substantially destroyed, as determined by the Owner's architect), the Owner will, subject to the *Residential Tenancy Act*, promptly restore and repair the same whenever and as often as damage occurs, to a state and condition that is equal to or greater than the state and condition thereof as existed before such damage occurred; and
- (j) throughout the Term, it will insure, or cause to be insured, the New Building to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands.

**ARTICLE 3
ENFORCEMENT**

3.1 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 4
RELEASE AND INDEMNITY**

4.1 **Release and Indemnity.** Subject to Section 4.2, the Owner hereby:

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

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

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

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

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

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

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

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

The indemnities in this ARTICLE 4 will be both personal covenants of the Owner and integral parts of the Section 219 Covenant granted in this Agreement.

4.2 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 4.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 4.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 4.2(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 4.2(b).

- (c) Regardless of whether the claim is being defended under Section 4.2(a) or Section 4.2(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.

4.3 Survival of Release and Indemnities. The release and indemnities in this ARTICLE 4 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 5 NOTICES

5.1 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:

Arbutus Village Holdings Ltd.
17th Floor - 900 West Georgia Street
Vancouver, British Columbia
V6C 2W6

Attention: President

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 6 MISCELLANEOUS

6.1 **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.

6.2 **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.

6.3 **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.

6.4 **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.

6.5 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.

6.6 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.

6.7 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 6.7 will apply equally to all subsequent purchasers/transferees (other than the transfer of an interest in the Lands by way of mortgage).

6.8 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.

6.9 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.

6.10 **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.

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

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

CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charges" means the Mortgage registered under number CA9315892 and the Assignment of Rents registered under number CA9315893;
- (b) "Existing Chargeholder" means COMPUTERSHARE TRUST COMPANY OF CANADA;
- (c) "New Charges" means the Housing Agreement and Section 219 Covenant contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument - Part 2.

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

- (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: 1525 Robson Street**

On April 2, 2025, 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. Enactment of the attached By-law, as required by section 565.2 of the Vancouver Charter, will authorize the City to enter into such Housing Agreement with the land owner and complete the process to implement Council's condition regarding a Housing Agreement.

Director of Legal Services
February 24, 2026



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**

506659 - Housing Agreement - Secured Market Rental (1525 Robson Street, Vancouver)

2. Description of Land

PID/Plan Number Legal Description

032-613-890 LOT A BLOCK 43 DISTRICT LOT 185 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP141399

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Section 219 Covenant Entire Instrument

4. Terms

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

5. Transferor(s)

1385456 B.C. LTD., NO.BC1385456

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

Gagan Dosanjh
Barrister & Solicitor
Terra Law Corporation
Suite 2800 - 650 West Georgia St.
Vancouver, BC V6B 4N7
604-235-4951

Execution Date

YYYY-MM-DD
2026-02-10

Transferor / Transferee / Party Signature(s)

1385456 B.C. LTD.
By their Authorized Signatory

Name: **Neelam Gill**
Development Manager

Name: **Geoff Heu**
Sr. Vice President, Development
Western Canada

Officer Certification

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



Land Title Act
Charge
General Instrument – Part 1

Witnessing Officer Signature

Execution Date

YYYY-MM-DD

Transferor / Transferee / Party Signature(s)

CITY OF VANCOUVER
By their Authorized Signatory

Name:

Name:

Officer Certification

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

Electronic Signature

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

TERMS OF INSTRUMENT - PART 2
HOUSING AGREEMENT AND BUILDING USE COVENANT
RENTAL HOUSING
1525 ROBSON STREET

WHEREAS:

- A. It is understood and agreed that this Agreement will be read as follows:
- I. the Transferor, 1385456 B.C. 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-2024-00900 (the “Development Application”) to permit the development of two (2) residential towers, consisting of 393 secured market rentals distributed throughout the 28 storey West tower and 29 storey East tower, over a two (2) level retail podium and four (4) levels of underground parking having vehicular access from the lane (the “Development”), which Development Application was approved by the Development Permit Board in principle, subject to, among other things, fulfilment of the following condition prior to issuance of a Development Permit:
- “1.1 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 393 residential units as secured market rental housing, excluding Seniors Supportive or Independent Living 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 90 consecutive days at a time.*
 - 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 condition.

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

**ARTICLE 1
DEFINITIONS AND 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”** has the meaning set out in the City’s Zoning and Development By-law No. 3575, as amended or replaced from time to time;
- (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 1385456 B.C. 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 1.1(s)(i)(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"** has the meaning ascribed to that term in Section 2.1(c) 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 the number of 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 Rental Housing (the "**Rental Housing Units**") in accordance with the terms of this Agreement, and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building, then it will promptly take all steps reasonably necessary to enable it to repair the New Building or build a replacement building or buildings on the Lands, which repaired or replacement building(s) on the Lands (together with any remaining undestroyed or undemolished building) will also contain not less than the same number and type of replacement Rental Housing Units as the New Building formerly contained, which replacement Rental Housing Units will also be used only for the purpose of providing Rental Housing (each such replacement Rental Housing Unit hereinafter referred to as a "**Replacement Rental Housing Unit**"), in accordance with the terms of this Agreement and the applicable by-laws of the City 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 90 consecutive days at a time;
- (e) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or

registered title to any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) to be sold or otherwise transferred unless title to every one of the Rental Housing Units (or Replacement Rental Housing Units, as applicable) is sold or otherwise transferred together and as a block to the same legal or beneficial owner, as applicable and subject to Section 6.7;

- (f) throughout the Term, it will not suffer, cause or permit, the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided, whether by subdivision plan, strata plan or otherwise, without the prior written consent of the Director of Legal Services which consent may be arbitrarily withheld; provided, however, the Owner may, without obtaining any such consent, subdivide the Lands by strata plan or airspace subdivision plan so long as all of the Rental Housing Units are contained within one strata lot or one airspace parcel, respectively;
- (g) throughout the Term, that any sale of any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) in contravention of the covenant in Section 2.1(e), and any subdivision of the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(f), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (h) throughout the Term, it will keep and maintain the New Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings;
- (i) if the New Building, or any part thereof, is damaged during the Term, it will promptly restore and repair the same whenever and as often as damage occurs, to a state and condition that is equal to or greater than the state and condition thereof as existed before such damage occurred; and
- (j) throughout the Term, it will insure, or cause to be insured, the New Building to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands.

ARTICLE 3 ENFORCEMENT

3.1 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 4 RELEASE AND INDEMNITY

4.1 **Release and Indemnity.** Subject to Section 4.2, the Owner hereby:

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

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

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel, except in each case to the extent 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 City or City Personnel:
 - (A) reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - (B) withholding any permit pursuant to this Agreement;
 - (C) performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement; or
 - (D) exercising any of its rights under any Section 219 covenant, Vancouver Charter Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or
 - (iii) any negligent act or omission or wilful misconduct of the Owner or any of the Owner's Personnel in connection with the observance and performance of the obligations of the Owner under this Agreement; or

- (iv) any default in the due observance and performance of the obligations and responsibilities of the Owner under this Agreement,

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel, except in each case to the extent 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 4 will be both personal covenants of the Owner and integral parts of the Section 219 Covenant granted in this Agreement.

4.2 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 4.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 4.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 4.2(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 4.2(b).

- (c) Regardless of whether the claim is being defended under Section 4.2(a) or Section 4.2(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.

4.3 Survival of Release and Indemnities. The release and indemnities in this ARTICLE 4 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 5
NOTICES**

5.1 **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:

1385456 B.C. LTD.
1600 - 650 West Georgia Street
Vancouver, British Columbia
V6B 4N7

Attention: Asset Manager

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 6
MISCELLANEOUS**

6.1 **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.

6.2 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.

6.3 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.

6.4 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.

6.5 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.

6.6 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.

6.7 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 6.7 will apply equally to all subsequent purchasers/transferees (other than the transfer of an interest in the Lands by way of mortgage).

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

6.9 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.

6.10 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.

6.11 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