

VICTORIA LAND TITLE OFFICE

LAND TITLE ACT  
 FORM C (Section 233) CHARGE  
 GENERAL INSTRUMENT - PART 1 Province of British Columbia

Mar-03-2021 13:11:18.001

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PAGE 1 OF 13 PAGES

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.

<b>Mary Catherine Murrell</b> 2WDKD3	Digitally signed by Mary Catherine Murrell 2WDKD3 Date: 2021.02.09 11:56:01 -08'00'
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1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

**Randall & Murrell**

**Lawyers**

**201 - 1006 Fort Street**

**Victoria**

**BC V8V 3K4**

**Document Fees: \$74.87**

**Tel: (250) 382-9282, File: 20-334-M**

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

**009-314-911**

**LOT 17, BLOCK 6, SECTION 3, VICTORIA DISTRICT, PLAN 62**

STC? YES

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**Covenant**

4. TERMS: Part 2 of this instrument consists of (select one only)

(a)  Filed Standard Charge Terms D.F. No.

(b)  Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

**EDWARD JOEL FARKAS**

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

**CITY OF VICTORIA**

**1 CENTENNIAL SQUARE**

**VICTORIA**

**BC**

**V8W 1P6**

**CANADA**

7. ADDITIONAL OR MODIFIED TERMS:

**NIL**

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges 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.

Officer Signature(s)

Execution Date

Transferor(s) Signature(s)

**Esther Alex**

Commissioner for Taking Affidavits in British Columbia

**201-1006 Fort Street**

**Victoria, BC V8V 3K4**

Y	M	D
20	10	01

**EDWARD JOEL FARKAS** by his  
 Attorney, Jennifer Dora Farkas  
 see CA8752240

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  
FORM C (Section 233) CHARGE  
GENERAL INSTRUMENT - PART 1 Province of British Columbia

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1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Randall & Murrell  
Lawyers  
201 - 1006 Fort Street  
Victoria

Tel: (250) 382-9282, File: 20-334-M

BC V8V 3K4

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]  
009-314-911 LOT 17, BLOCK 6, SECTION 3, VICTORIA DISTRICT, PLAN 62

STC? YES

3. NATURE OF INTEREST

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Officer Signature(s)

**ESTHER ALEX**

*A Commissioner for Taking Affidavits  
for the Province of British Columbia*

201 - 1006 FORT STREET  
VICTORIA, BC V8V 3K4

Commission Expiry: March 31, 2022

Execution Date

Y	M	D
20	10	01

Transferor(s) Signature(s)

EDWARD JOEL FARKAS by his  
Attorney, Jennifer Dora Farkas  
See CA8752240

OFFICER CERTIFICATION:

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LAND TITLE ACT  
FORM D  
EXECUTIONS CONTINUED

Officer Signature(s)



Lisa van den Dolder  
Barrister & Solicitor  
City of Victoria  
1 Centennial Square  
Victoria, BC V8W 1P6

Execution Date

Y	M	D
21	02	08

Transferor / Borrower / Party Signature(s)

CITY OF VICTORIA, by its authorized signatory:



Per:

CHRISTOPHER D. COATES  
City Clerk

Per:

Corporation of the City of Victoria  
#1 Centennial Square  
Victoria, BC V8W1P6

OFFICER CERTIFICATION:

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## TERMS OF INSTRUMENT - PART 2

### TRANSPORTATION DEMAND MANAGEMENT AGREEMENT

#### WHEREAS:

- A. Capitalized terms not otherwise or elsewhere defined in this Agreement will have the respective meanings ascribed to them in Section 1.1;
- B. It is understood and agreed that this Agreement will be read as follows:
- (a) the transferor, EDWARD JOEL FARKAS, as more particularly defined in Section 1.1, is called the "Owner"; and
  - (b) the transferee, THE CORPORATION OF THE CITY OF VICTORIA, is called the "City" or the "City of Victoria";
- C. The Owner is the registered and beneficial owner of the lands and premises located in the City of Victoria, Province of British Columbia, with civic address of 1029 Queens Avenue, and legally known and described as:
- PID: 009-314-911  
Legal Description: Lot 17, Block 6, Section 3, Victoria District, Plan 62
- (including any lands into which the same may be consolidated or subdivided, the "Lands");
- D. The Owner made an application to rezone and develop the Lands which the City's elected council has preliminarily considered, and determined that a public hearing date may be set after, among other things, one or more legal agreements have been executed to secure:
- (a) provision of one car share membership for each of the four (4) residential units on the Lands; and
  - (b) a Driving Credit to the Shared Vehicle Organization for each of the four (4) car share memberships;
- all to the satisfaction of the Director of Engineering.
- E. To satisfy the foregoing terms the Owner and the City have entered into this Agreement.

#### CONSIDERATION

NOW THEREFORE this agreement witnesses that for Ten Dollars and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the parties), the parties, for themselves and their successors and assigns, hereby covenant and agree as follows:

## **ARTICLE 1 DEFINITIONS**

### **1.1 Definitions**

The terms defined in this Section 1.1 will have the following meanings for all purposes in this Agreement, except where specifically otherwise provided herein:

**"Buildings"** means the Existing Building and the New Building to be constructed on the Lands as contemplated by the Building Permit, Development Permit and the Rezoning Bylaw and "Building" means either the Existing Building or the New Building, as the case may be;

**"Building Permit"** means any building permit that may be issued with respect to the Lands after enactment of the Rezoning Bylaw and issuance of the Development Permit, if the Rezoning Bylaw is enacted and the Development Permit is issued;

**"City Personnel"** means the City's elected officials, officers, employees, contractors, subcontractors, agents, licensees, invitees and permittees;

**"City Solicitor"** means the person employed by the City as the City Solicitor and includes any other City lawyer acting under the authority of the City Solicitor;

**"Development Permit"** means any development permit that may later be issued with respect to the Lands as a result of the Owner's development permit with variances application no. 00117;

**"Director of Engineering"** means the person employed by the City as the Director of Engineering and Public Works and their successors in function and anyone acting under their respective authority;

**"Director of Planning"** means the person employed by the City as the Director of Sustainable Planning and Community Development Department and their successors in function and anyone acting under their respective authority;

**"Driving Credit"** means a One Hundred (\$100) Dollar driving credit for each of the car share memberships in the Shared Vehicle Organization;

**"Existing Building"** means the two family dwelling that is currently constructed on the Lands;

**"Land Title Act"** means the Land Title Act, R.S.B.C. 1996, c.250;

**"Lands"** has the meaning ascribed to that term in Recital C;

**"Losses"** means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;

**"New Building"** means the new two family dwelling that is to be constructed on the Lands in future;

**"Occupancy Permit"** means any occupancy permit issued for the New Building;

**"Owner"** means Edward Joel Farkas and all of his assigns, successors and successors in title to the Lands or any part thereof and, if in the future, the Lands are subdivided by way of a Strata Plan then **"Owner"** includes, without limitation, any Strata Corporation thereby created;

**"Permit"** means any Development Permit, Building Permit, Occupancy Permit or other permit applied for from the City in respect of the New Building or the Lands;

**"Rezoning Bylaw"** means any rezoning bylaw that may later be enacted in response to the rezoning application described in Recital D (being rezoning application no. 00117);

**"Section 219 Covenants"** means the covenants contained in this Agreement made pursuant to Section 219 of the *Land Title Act*;

**"Shared Vehicle Organization"** means a legal entity whose principal business objective is to provide its members, for a fee, with a car-sharing service by which such members have self-serve access to a fleet of shared vehicles which they may reserve for use on an hourly or other basis, and which the City has approved and which has entered into the Shared Vehicle Service Agreement with the Owner, but does not include rental vehicle organizations;

**"Shared Vehicle Service Agreement"** means a legally binding agreement, satisfactory to the Director of Planning, entered into by the Owner and the Shared Vehicle Organization for the provision of the memberships in the Shared Vehicle Organization, pursuant to the terms of this Agreement, and containing such other terms and conditions as the Owner may request and the Director of Planning may first agree to in writing;

**"Strata Corporation"** means a strata corporation created by the filing of a Strata Plan;

**"Strata Plan"** means a strata plan filed in respect of the Lands or any subdivided portion thereof pursuant to the *Strata Property Act*; and

**"Strata Property Act"** means the Strata Property Act, S.B.C. 1998, c. 43.

## ARTICLE 2 PRE- AND POST-OCCUPANCY CONDITIONS

### 2.1 Section 219 Covenant – Pre-Occupancy Conditions

The Owner covenants with the City pursuant to Section 219 of the *Land Title Act*, in respect of the use of the Lands and the Buildings, that notwithstanding that the Owner may be otherwise entitled, the Owner will not, and will not suffer or permit any other person to:

- (a) apply for an Occupancy Permit for all or part of the New Building;
- (b) take any action to compel issuance of an Occupancy Permit for all or part of the New Building; or
- (c) occupy all or part of the New Building,

and agrees that no part of the New Building will be occupied, and the City will have no obligation to issue an Occupancy Permit for the same, even if the Owner has completed construction of the New Building, unless and until the Owner has satisfied the following preconditions to the satisfaction of the Director of Planning:

- (d) the Owner has purchased four (4) memberships in the Shared Vehicle Organization, and made one available for the exclusive use of the occupant(s) of each of the 4 residential units in the Buildings;
- (e) the Owner has purchased four (4) Driving Credits for the Shared Vehicle Organization for each of the four (4) memberships;
- (f) the Owner, at its expense, has entered into a legally binding Shared Vehicle Service Agreement with the Shared Vehicle Organization by which the Owner shall arrange for the provision of four (4) memberships in the Shared Vehicle Organization for the occupants of the Buildings. The Shared Vehicle Service Agreement shall be on arrangements, terms and conditions to be agreed upon by the parties and the Director of Planning, but at a minimum, the Agreement must provide:
  - (i) for the management (including the transfer to new occupants when tenancies change) of the memberships in the Shared Vehicle Organization purchased by the Owner for the exclusive use of each of the residential units in the Buildings;
  - (ii) for the assignment of the Shared Vehicle Service Agreement by the Owner (or its successors) to any Strata Corporation or to any successor in title to the Lands concurrent with the assignment of this Agreement, but not prior to all financial obligations of the Owner pursuant to the Shared Vehicle Service Agreement being fulfilled by the Owner to the satisfaction of the Director of Planning; and
  - (iii) that the Shared Vehicle Service Agreement may not be amended or terminated without the prior written consent of the Director of Engineering.

## **2.2 Section 219 Covenant – Post Occupancy Conditions**

The Owner further covenants with the City pursuant to Section 219 of the *Land Title Act*, in respect of the use of the Lands and the Buildings, that notwithstanding that the Owner may be otherwise entitled, the Owner will, throughout the term of this Agreement abide by the terms and conditions of the Shared Vehicle Service Agreement.

## **2.3 Security for Memberships in the Shared Vehicle Organization and Driving Credits**

As security for the Owner's obligation to provide four (4) memberships in the Shared Vehicle Organization (see Section 2.1(d)) and the four (4) Driving Credits for the Shared Vehicle Organization (see Section 2.1(e)) to the occupant(s) of the four (4) residential units in the Buildings, the Owner will deliver to the City a letter of credit prior to the issuance of the Building Permit, which:

- (a) is an the amount equal to not less than the cost of those four (4) memberships in the Shared Vehicle Organization and the four (4) Driving Credits for the Shared Vehicle Organization;
- (b) is issued by a Schedule I Bank under the *Bank Act* (Canada) or other reputable financial institution acceptable to the Director of Planning, and bears an identifying number;
- (c) is clean, irrevocable, unconditional and without limitations;
- (d) is payable at site at an identified branch of the issuer located in Victoria;
- (e) states the issue date and expiry date, if any, is for an initial term of not less than one year from the issue date and is thereafter automatically renewing;
- (f) states that the issuer will not enquire as to whether or not the City has a right to make demand on the Letter of Credit, that the City may make partial as well as full drawings, and that the issuer will duly honour drafts drawn in conformity with the Letter of Credit if presented to the issuer on or before the expiry date, if any, of the Letter of Credit;
- (g) identifies the City as beneficiary and the Owner as the applicant, unless alternate arrangements are approved by the Director of Planning;
- (h) references this Agreement;
- (i) requires sixty (60) days prior notice by the issuer to the City in the event of non-renewal or cancellation by the issuer;
- (j) entitles only the issuer to give notice of non-renewal;
- (k) is signed by an authorized signatory of the issuer; and
- (l) is, in all other respects, in form and substance acceptable to the Director of Planning.

As the financial obligations of the Owner secured by this letter of credit are satisfied by the Owner, the Owner may apply to the City to reduce the amount of the letter of credit by amounts equivalent to the value of the obligations satisfied to that time.

### **ARTICLE 3 SUBDIVISION**

#### **3.1 Subdivision Generally**

If the Lands are subdivided at any time hereafter either under the provisions of the *Land Title Act* or under the *Strata Property Act*, or under other similar legislation enacted from time to time, then upon the deposit of a plan of subdivision, strata plan, or similar plan as the case may be, subject to Section 3.2:

- (a) the rights and benefits of this Agreement herein granted will be annexed to and run with each of the new parcels, lots or other subdivided parcels and areas so created; and
- (b) the burdens, obligations, agreements, and Section 219 Covenants contained in this Agreement will continue to charge each of the new parcels, lots or other subdivided parcels and areas so created.

#### **3.2 Subdivision by Strata Plan**

If the Lands, or any portion thereof, are subdivided by a strata plan, this Agreement will charge title to the strata lots and the common property comprising such strata plan and:

- (a) the Section 219 Covenant(s) granted herein will be registered against each individual strata lot and noted on the common property sheet;
- (b) the strata corporation or the strata corporations so created will perform and observe the Owner's covenants in this Agreement, solely at the expense of the strata lot owners; and
- (c) the liability of each strata lot owner for the performance and observance of the Owner's covenants herein will be in proportion to the unit entitlement of his, her or its strata lot as established by the strata plan.

### **ARTICLE 4 INDEMNITY AND RELEASE**

#### **4.1 Indemnity**

The Owner, for itself and its successors and assigns, hereby covenants and agrees to indemnify and save harmless the City and all City Personnel from any and all Losses which may arise or accrue to anyone, whether as owner, occupier or user of the Lands, 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 would not or could not have been sustained but for this Agreement, including:

- (a) the breach of any covenant in this Agreement;
- (b) the use of the Lands contemplated under this Agreement; and

- (c) restrictions or requirements under this Agreement.

This indemnity forms part of the Section 219 Covenants contained herein and will survive the discharge or any termination of this Agreement.

#### **4.2 Release**

The Owner, for itself and its successors and assigns, hereby releases and forever discharges the City and all City Personnel of and from all Losses which the Owner can or may have against the City for any Losses that the Owner may pay, incur, sustain or be put to by reason of or which would not or could not have been sustained "but for" this Agreement, including:

- (a) the breach of any covenant in this Agreement;
- (b) the use of the Lands contemplated under this Agreement; and
- (c) restrictions or requirements under this Agreement.

This release will survive the discharge or any termination of this Agreement.

### **ARTICLE 5 OWNER DEFAULT**

#### **5.1 Owner's Default**

If the Owner defaults in observing or performing any obligation under this Agreement the Owner will rectify such default within fifteen days after receipt of notice from the Director of Planning, except that if the Owner, by reason of the nature of the default, cannot in the opinion of the Director of Planning rectify it within fifteen days, the Owner will have a further reasonable period to rectify so long as the Owner proceeds promptly and diligently. If the Owner fails to rectify such default within the permitted time period or if the Director of Planning, in case of emergency, does not consider that it has time to deliver such notice, the City may rectify the default on the Owner's behalf. If any default by the Owner results in the need for the Owner to take positive action to rectify such default, the Owner will take such positive action as the Director of Planning considers necessary, and, if the Owner fails to do so, the City may apply to court for a mandatory injunction requiring the Owner to take such action. This Section 5.1 will survive termination or release of this Agreement.

### **ARTICLE 6 NOTICES**

#### **6.1 Notices**

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

in the case of the Owner, addressed to it at:

1-1033 Queens Avenue  
Victoria, BC V8T1M7  
Attention: Jenny Farkas, as attorney for Edward Farkas

and in the case of the City, addressed to it at:

City of Victoria  
1 Centennial Square  
Victoria, British Columbia  
V8W 1P6  
Attention: City Clerk

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

## **ARTICLE 7 MISCELLANEOUS**

### **7.1 Effect of Termination of Shared Vehicle Service Agreement**

If the Shared Vehicle Service Agreement is terminated, such termination will not affect the Section 219 Covenants contained herein, unless the City expressly otherwise agrees in writing.

### **7.2 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.

### **7.3 Joint and Several**

If the Owner consists of more than one person, each such person will be jointly and severally liable to perform the Owner's obligations under this Agreement.

### **7.4 Registration**

The Owner agrees to cause the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:

- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
- (b) registered against any of the titles to the Lands in favour of the City; and
- (c) which the City Solicitor has determined, in his sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.

#### **7.5 City's Other Rights Unaffected/No Derogation**

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 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 Buildings and the Lands as if this Agreement had not been executed and delivered by the Owner and the City.

#### **7.6 Further Assurances**

The parties to this Agreement will do such things and execute such documents and in such form as may reasonably be necessary in order to perfect the intention of this Agreement.

#### **7.7 No Waiver**

The Owner acknowledges and agrees that no failure on the part of the City or City Personnel 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 or City Personnel of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies provided for in this Agreement will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City in this Agreement will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.

#### **7.8 Time of Essence**

Time will be of the essence of this Agreement.

#### **7.9 City's Costs**

In any action to enforce this Agreement in which any Court determines that the position of the City will prevail, the City will be entitled to court costs on a solicitor/client basis.

#### **7.10 Owner's Costs**

Unless otherwise provided, the Owner will be responsible for all costs and expenses incurred to comply with its obligations under this Agreement.

#### **7.11 Owner's Representations and Warranties**

The Owner represents and warrants to and covenants and agrees with the City that:

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

#### **7.12 Enurement**

This Agreement will enure to the benefit of and bind each of the City and its successors and assigns and the Owner and the Owner's successors and assigns.

#### **7.13 Interpretation**

In this Agreement, the words "include" and "including" are to be construed as meaning "including, without limitation".

#### **7.14 Headings**

The division of this Agreement into Articles and Sections and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Article or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement.

#### **7.15 Number**

Words importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa, and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

#### **7.16 Governing Law and Legislation**

This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia. Any reference to a statute is to the statute and its regulations in force on the date the Form C General Instrument - Part 1 attached hereto is fully executed and to subsequent amendments to or replacements of the statute or regulations.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the General Instrument - Part 1, to which these Terms of Instrument are attached and form a part of.

**END OF DOCUMENT**