

NO. 19-076

**HOUSING AGREEMENT (2220 COOK STREET) BYLAW**  
A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to authorize agreements for rental housing for the lands known as 2220 Cook Street, Victoria, BC.

Under its statutory powers, including section 483 of the *Local Government Act*, the Council of The Corporation of the City of Victoria in an open meeting enacts the following provisions:

**Title**

- 1      This Bylaw may be cited as the "HOUSING AGREEMENT (2220 COOK STREET) BYLAW (2019)".**

**Agreement authorized**

- 2      The Mayor and the City Clerk are authorized to execute the Housing Agreements:**
- (a)      substantially in the form attached to this Bylaw as Schedule A and Schedule B;
  - (b)      between the City and 0960608 BC Ltd., Inc. No. BC0960608, or other registered owners from time to time of the lands described in subsection (c); and
  - (c)      that applies to the lands known as 2220 Cook Street, Victoria, BC, legally described as:  
PID: 004-016-998, Amended Lot 12 (DD 88931I), Block 6, Section 3, Victoria District, Plan 62

READ A FIRST TIME the                      **19<sup>th</sup>**      day of                      **September**                      2019

READ A SECOND TIME the                      **19<sup>th</sup>**      day of                      **September**                      2019

READ A THIRD TIME the                      **19<sup>th</sup>**      day of                      **September**                      2019

ADOPTED on the    day of    2019

CITY CLERK

MAYOR

## Schedule A

### HOUSING AGREEMENT

(Pursuant to Section 483 of the *Local Government Act*)

BETWEEN:

**THE CORPORATION OF THE CITY OF VICTORIA**

#1 Centennial Square  
Victoria, B.C. V8W 1P6

(the "City")

OF THE FIRST PART

AND:

**0960608 B.C. LTD. (Inc. No. BC0960608)**

961 Pembroke Street  
Victoria, BC V8T 1J1

(the "Owner")

OF THE SECOND PART

AND:

**ROYAL BANK OF CANADA**

a Canadian Chartered Bank having a branch office at  
1079 Douglas Street  
Victoria, BC V8W 2C5

(the "Existing Chargeholder")

OF THE THIRD PART

### WHEREAS:

- A. Capitalized terms used herein will have the respective meanings subscribed to them in section 1.1 of this Agreement, unless the context otherwise clearly requires or they are elsewhere defined herein.
- B. Under section 483 of the *Local Government Act* the City may, by bylaw, enter into a Housing Agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 483(2) of the *Local Government Act*.
- C. The Owner is the registered owner in fee simple of lands in the City of Victoria, British Columbia, with a civic address of 2220 Cook Street and legally described as:

PID: 004-016-998

Amended Lot 12 (DD 889311), Block 6, Section 3, Victoria District, Plan 62

(the "Lands").

- D. The Owner intended to subdivide the Lands into to (2) proposed lots as follows:
- (i) Proposed Lot A, which is intended for future residential development ("**Proposed Lot A**"); and
  - (ii) Proposed Lot B, which contains an existing building with eight (8) residential units ("**Proposed Lot B**").
- E. The approximate layout of Proposed Lot A and Proposed Lot B are shown on the proposed Subdivision Plan EPP94996 attached hereto as Schedule "A".
- F. The Owner has applied to the City to rezone the Lands and for a development permit with variances for the Lands to permit the development of Proposed Lot A and permit the eight (8) residential units on Proposed Lot B.
- G. The City and the Owner wish to enter into this Agreement, as a Housing Agreement pursuant to section 483 of the *Local Government Act*, to secure the agreement of the Owner that all of the residential units on Proposed Lot B will be used and held only as rental housing.

**NOW THIS AGREEMENT WITNESSES** that pursuant to section 483 of the *Local Government Act*, and in consideration of the premises and covenants contained in this agreement (the "**Agreement**"), the parties agree each with the other as follows:

#### **1.0 DEFINITIONS**

##### **1.1** In this Agreement:

"**Development**" means the existing eight (8) unit building consisting of residential housing and related facilities on Proposed Lot B;

"**Dwelling Units**" means any or all, as the context may require, of the eight (8) self-contained residential dwelling units within the Development and includes any dwelling unit that is developed on the Proposed Lot B in future, whether as part of the Development or otherwise;

"**Dwelling Unit**" means any of such residential dwelling units located on Proposed Lot B;

"**Immediate Family**" includes a person's spouse, child, grandchild, parent, grandparent, sibling, niece and nephew, and includes the Immediate Family of the person's spouse;

"**Non-owner**" means a person other than a Related Person or the Owner;

"**Owner**" includes a person who acquires an interest in the Lands or any part of the Lands and is thereby bound by this Agreement, as referred to in section 9.3; and

"**Related Person**" includes, where the registered or beneficial owner of the Lands or Dwelling Unit, as applicable, is:

- (a) a corporation or society:

- (i) an officer, director, shareholder, or member of such corporation or society, or of another entity which is a shareholder or member of such corporation or society; or
- (ii) an Immediate Family of a person to whom paragraph (i) applies, or
- (b) an individual, an Immediate Family of the registered or beneficial owner.

**"Tenancy Agreement"** means a tenancy agreement pursuant to the *Residential Tenancy Act* that is regulated by that Act.

**1.2** In this Agreement:

- (a) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment; and
- (b) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.

**2.0 DWELLING UNITS TO BE USED AND OCCUPIED ONLY AS RENTAL UNITS**

- 2.1** The Owner covenants and agrees that the Dwelling Units shall only be used as rental housing in perpetuity, and for that purpose shall only be occupied by a Non-owner under the terms of a Tenancy Agreement between the Owner and the Non-owner who occupies the Dwelling Unit.

**3.0 NO RESTRICTIONS ON RENTALS**

- 3.1** The Owner covenants and agrees that the Owner shall not take any steps, or enter into any agreements, or impose any rules or regulations whatsoever, the effect of which would be to prevent or restrict the Owner of a Dwelling Unit from renting that Dwelling Unit to a Non-owner under the terms of a Tenancy Agreement.
- 3.2** Without limiting the generality of section 3.1, the Owner covenants and agrees that it will not make application to deposit a strata plan for or in respect of Proposed Lot B or a building on Proposed Lot B unless the strata bylaws in no way restrict rental of any Dwelling Unit to a Non-owner under the terms of a Tenancy Agreement.

**4.0 SUBDIVISION**

- 4.1** The City and the Owner covenant and agree that, as it is the intention of this Housing Agreement to ensure the availability of rental units to those units which are or will be located within the Development intended to be within the Proposed Lot B, upon registration of the subdivision plan to create the proposed lots as set out in Schedule "A" herein, this Agreement applies only to the existing property or properties on which the Development is located, and this Agreement will not bind any new lot into which the Lands are subdivided that does not contain the Development. Section 483(5) of the *Local Government Act* requires that notice of a housing agreement be filed in the Land Title Office, and the City agrees, if so requested by the Owner in writing, to take the necessary steps to cancel the notice of this Housing Agreement from title to any lots created from the Lands on which none of the Development is located, at the Owner's expense.

## 5.0 REPORTING

- 5.1 The Owner covenants and agrees to provide to the Director, within thirty (30) days of the Director's written request, a report in writing confirming that:

- (a) all Dwelling Units are being rented to Non-owners or are vacant;
- (b) all other requirements of this Agreement are being complied with by the Owner and the Development,

together with such other information as may be requested by the Director from time to time.

- 5.2 The Owner hereby authorizes the City to make such inquiries as it considers necessary in order to confirm that the Owner is complying with this Agreement.
- 5.3 The Owner acknowledges that it is within the City's sole discretion to consent or not to consent to modifications of this Agreement and that such consent may be withheld for any reason.

## 6.0 NOTICE TO BE REGISTERED IN LAND TITLE OFFICE

- 6.1 Notice of this Agreement (the "Notice") will be registered in the Land Title Office by the City at the cost of the Owner in accordance with section 483 of the *Local Government Act*, and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of the Notice.

## 7.0 LIABILITY

- 7.1 The Owner agrees to indemnify and saves harmless the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from all claims, demands, actions, damages, costs and liabilities, which all or any of them shall or may be liable for or suffer or incur or be put to by reason of or arising out of failure of the Owner to comply with the terms and conditions of this Agreement.
- 7.2 The Owner hereby releases and forever discharges the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from any and all claims, demands, actions, damages, economic loss, costs and liabilities which the Owner now has or hereafter may have with respect to or by reason of or arising out of the fact that the Lands are encumbered by and affected by this Agreement.

## 8.0 PRIORITY AGREEMENT

- 8.1 The Existing Chargeholder, as the registered holder of charges by way of a mortgage and assignment of rents against the Lands, which said charges are registered in the Land Title Office at Victoria, British Columbia, under numbers CA6746849 and CA6746850, for and in consideration of the sum of One Dollar (\$1.00) paid by the City (the receipt whereof is hereby acknowledged), agrees with the City that upon filing of a Notice with the Land Title Office that the Lands are subject to this Agreement, pursuant to Section 483(5) of the *Local Government Act*, this Agreement shall be an encumbrance upon the Lands in priority

to the said charges in the same manner and to the same effect as if Notice had been filed prior to the said charges.

## **9.0 GENERAL PROVISIONS**

**9.1 NOTICE.** If sent as follows, notice under this Agreement is considered to be received

- (a) seventy-two (72) hours after the time of its mailing (by registered mail) or faxing, and
- (b) on the date of delivery if hand-delivered,

to the City:

City of Victoria  
#1 Centennial Square  
Victoria, BC V8W 1P6

Attention: Director of Sustainable Planning and  
Community Development  
Fax: 250-361-0386

to the Owner:

0960608 B.C. Ltd.  
961 Pembroke Street  
Victoria, BC V8T 1J1

Attention: Garde Colins

If a party identifies alternate contact information in writing to another party, notice is to be given to that alternate address.

If normal mail service or facsimile service is interrupted by strike, work slowdown, force majeure, or other cause,

- (b) notice sent by the impaired service is considered to be received on the date of delivery, and
- (c) the sending party must use its best efforts to ensure prompt receipt of a notice by using other uninterrupted services, or by hand-delivering the notice.

**9.2 TIME.** Time is of the essence of this Agreement.

**9.3 BINDING EFFECT.** This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees. In accordance with section 483(6) of the *Local Government Act*, this Agreement and all obligations hereunder is binding on all who acquire an interest in the Lands, and the Owner only during the Owner's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Owner has an interest.

- 9.4 WAIVER.** The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.
- 9.5 HEADINGS.** The headings in this Agreement are inserted for convenience and reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.
- 9.6 LANGUAGE.** Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.
- 9.7 EQUITABLE REMEDIES.** The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 9.8 CUMULATIVE REMEDIES.** No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.
- 9.9 ENTIRE AGREEMENT.** This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.
- 9.10 FURTHER ASSURANCES.** Each of the parties will do, execute, and deliver, or cause to be done, executed, and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.
- 9.11 AMENDMENT.** This Agreement may be amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the City and thereafter if it is signed by the City and the Owner.
- 9.12 LAW APPLICABLE.** This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
- 9.13 NO DEROGATION FROM STATUTORY AUTHORITY.** Nothing in this Agreement shall:
- (a) limit, impair, fetter or derogate from the statutory powers of the City all of which powers may be exercised by the City from time to time and at any time to the fullest extent that the City is enabled and no permissive bylaw enacted by the City, or permit, licence or approval, granted, made or issued thereunder, or pursuant to statute, by the City shall estop, limit or impair the City from relying upon and enforcing this Agreement; or
  - (b) relieves the Owner from complying with any enactment, including the City's bylaws, or any obligation of the Owner under any other agreement with the City.
- 9.14 JOINT AND SEVERAL.** The Owner, if more than one, are jointly and severally obligated to perform and observe each and every of the covenants, warranties and agreements herein contained by the Owner to be observed and performed.

**9.15 COUNTERPARTS.** This Agreement may be executed in counterparts and delivered by facsimile or emailed PDF file, each of which will have the same effect as if all parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

**9.16 EFFECTIVE DATE.** This Agreement is effective as of the date of the signature of the last party to sign.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year last below written.

THE CORPORATION OF THE CITY OF )  
VICTORIA by its authorized signatories: )

## MAYOR Lisa Helps

CITY CLERK Chris Coates

Date signed:

**0960608 B.C. LTD.**  
by its authorized signatory(ies):

Print Name: Garde Colins

Print Name: Malcolm Harman

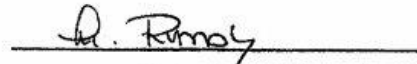
Date signed:



ROYAL BANK OF CANADA  
by its authorized signatory(ies):



Print Name: Iesha Holenchuk



Print Name: Michelle Rumsby

Date signed: Sept 17 2019

**Schedule "A"**

[see attached Proposed Subdivision Plan EPP94966]



## Schedule B

### HOUSING AGREEMENT (Pursuant to Section 483 of the *Local Government Act*)

BETWEEN:

THE CORPORATION OF THE CITY OF VICTORIA

#1 Centennial Square  
Victoria, B.C.  
V8W 1P6  
(the "City")

OF THE FIRST PART

AND:

0960608 B.C. LTD. (Inc. No. BC0960608)  
961 Pembroke Street  
Victoria, BC V8T 1J1  
(the "Owner")

OF THE SECOND  
PART

AND:

ROYAL BANK OF CANADA  
a Canadian Chartered Bank having a branch office at  
1079 Douglas Street  
Victoria, BC V8W 2C5  
(the "Existing Chargeholder")

OF THE THIRD  
PART

### WHEREAS

- A. Capitalized terms used herein will have the respective meanings ascribed to them in section 1.1 of this Agreement, unless the context otherwise clearly requires or they are elsewhere defined herein.
- B. Under section 483 of the *Local Government Act* the City may, by bylaw, enter into a Housing Agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 483(2) of the *Local Government Act*;

- C. The Owner is the registered owner in fee simple of lands in the City of Victoria, British Columbia, with a civic address of 2220 Cook Street and legally described as:  
PID: 004-016-998  
Amended Lot 12 (DD 889311), Block 6, Section 3, Victoria District, Plan 62  
(the "**Lands**").
- D. The Owner intends to subdivide the Lands into two (2) proposed lots as follows:
- (i) Proposed Lot A, which is intended for the future residential development of three (3) Dwelling Units ("**Proposed Lot A**"); and
  - (ii) Proposed Lot B, which contains an existing building with eight (8) residential units ("**Proposed Lot B**").
- E. The approximate layout of Proposed Lot A and Proposed Lot B are shown on the proposed Subdivision Plan EPP94996 attached hereto as Schedule "A".
- F. The Owner has applied to the City to rezone the Lands and for a development permit with variances for the Lands to permit the construction of three (3) Dwelling Units on Proposed Lot A and permit the existing residential units on Proposed Lot B;
- G. The Dwelling Units on Proposed Lot A are intended to be stratified and therefore will be subject to the *Strata Property Act* (British Columbia) and the bylaws of the Strata Corporation, but the intent of this Housing Agreement is to ensure the perpetual availability of rental units (in addition to owner-occupied units);
- H. The City and the Owner wish to enter into this Agreement, as a Housing Agreement pursuant to section 483 of the *Local Government Act*, to establish the terms and conditions regarding the occupancy of the residential units identified in this Housing Agreement.

**NOW THIS AGREEMENT WITNESSES** that pursuant to section 483 of the *Local Government Act*, and in consideration of the premises and covenants contained in this Agreement, the parties agree each with the other as follows:

#### **1.0 Definitions**

##### **1.1 In this Agreement:**

"**Development**" means the proposed three (3) unit building consisting of residential housing and related facilities on Proposed Lot A.

"**Dwelling Unit**" means any of the three (3) self-contained residential dwelling units that will be located within the Development, and includes any dwelling unit that is developed on Proposed Lot A in future, whether as part of the Development or otherwise, and "Dwelling Units" means collectively all of such residential dwelling units located on Proposed Lot A.

**"Immediate Family"** includes a person's spouse, child, grandchild, parent, grandparent, sibling, niece and nephew, and includes the Immediate Family of the person's spouse.

**"Non-owner"** means a person other than a Related Person or the Owner.

**"Owner"** includes a person who acquires an interest in the Lands or any part of the Lands and is thereby bound by this Agreement, as referred to in section 8.3.

**"Related Person"** includes, where the registered or beneficial owner of the Lands or Dwelling Unit, as applicable, is:

- (a) a corporation or society:
  - (i) an officer, director, shareholder, or member of such corporation or society, or of another entity which is a shareholder or member of such corporation or society; or
  - (ii) an Immediate Family of a person to whom paragraph (i) applies, or
- (b) an individual, an Immediate Family of the registered or beneficial owner.

**"Tenancy Agreement"** means a tenancy agreement pursuant to the *Residential Tenancy Act* that is regulated by that Act.

**"Strata Corporation"** means, for the portions of the Lands or any building on the Lands that is subdivided under the *Strata Property Act*, a strata corporation as defined in that Act, including the Owner while in control of the strata corporation and subsequently the individual strata lot owners collectively acting as the strata corporation.

#### 1.2 In this Agreement:

- (a) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment; and
- (b) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.

### 2.0 No Restrictions on Rentals

- 2.1 The Owner covenants and agrees that the Owner shall not take any steps, or enter into any agreements, or impose any rules or regulations whatsoever, the effect of which would be to prevent or restrict the Owner of a Dwelling Unit from renting that Dwelling Unit to a Non-owner under the terms of a Tenancy Agreement.
- 2.2 Without limiting the generality of section 2.1, the Owner covenants and agrees that it will not make application to deposit a strata plan for or in respect of Proposed Lot A or a building on Proposed Lot A unless the strata bylaws in no way restrict rental of any Dwelling Unit to a Non-owner under the terms of a Tenancy Agreement.
- 2.3 For certainty, if Proposed Lot A or the Development on Proposed Lot A are subdivided under the *Strata Property Act*, the Dwelling Units within the Development may be occupied

by the Owners of the strata lots.

### **3.0 Subdivision**

- 3.1 The City and the Owner covenant and agree that, as it is the intention of this Housing Agreement to ensure the availability of rental units to those units which are or will be located within the Development intended to be within the Proposed Lot A, upon registration of the subdivision plan to create the proposed lots as set out in Schedule "A" herein, this Agreement applies only to the existing property or properties on which the Development is located, and this Agreement will not bind any new lot into which the Lands are subdivided that does not contain the Development. Section 483(5) of the *Local Government Act* requires that notice of a housing agreement be filed in the Land Title Office, and the City agrees, if so requested by the Owner in writing, to take the necessary steps to cancel the notice of this Housing Agreement from title to any lots created from the Lands on which none of the Development is located, at the Owner's expense.

### **4.0 Reporting**

- 4.1 The Owner covenants and agrees to provide to the City, within 30 days of a written request from the City's Director of Sustainability Planning and Community Development, a report in writing confirming:
- (a) the number, type and location by suite or strata lot number, of Dwelling Units that are being rented to Non-owners; and
  - (b) any changes or proposed changes to the Strata Corporation's bylaws that may affect the terms of this Agreement.
- 4.2 The Owner covenants and agrees:
- (c) to exercise its voting rights in the Strata Corporation against the passage of any bylaws that would restrict the availability for rental of any Dwelling Unit under the terms of a Tenancy Agreement unless this Agreement is amended; and
  - (d) to notify the City of any proposed amendments to its strata bylaws.
- 4.3 The Owner acknowledges that it is within the City's sole discretion to consent or not to consent to modifications to this Agreement and that such consent may be withheld for any reason.

### **5.0 Notice to be Registered in Land Title Office**

- 5.1 Notice of this Agreement ("**Notice**") will be registered in the Land Title Office by the City at the cost of the Owner in accordance with section 483(5) of the *Local Government Act*, and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of the Notice.

### **6.0 Liability**

- 6.1 The Owner agrees to indemnify and saves harmless the City and each of its elected

and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from all claims, demands, actions, damages, costs and liabilities, which all or any of them shall or may be liable for or suffer or incur or be put to by reason of or arising out of failure of the Owner to comply with the terms and conditions of this Agreement.

- 6.2 The Owner hereby releases and forever discharges the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from any and all claims, demands, actions, damages, economic loss, costs and liabilities which the Owner now has or hereafter may have with respect to or by reason of or arising out of the fact that the Lands are encumbered by and affected by this Agreement.

#### **7.0 Priority Agreement**

- 7.1 The Existing Chargeholder, as the registered holder of a charge by way of a mortgage and an assignment of rents against the Lands, which said charges are registered in the Land Title Office at Victoria, British Columbia, under numbers CA6746849 and CA6746850, for and in consideration of the sum of One Dollar (\$1.00) paid by the City (the receipt whereof is hereby acknowledged), agrees with the City that upon filing of a Notice with the Land Title Office that the Lands are subject to this Agreement, pursuant to Section 483(5) of the *Local Government Act*, this Agreement shall be an encumbrance upon the Lands in priority to the said charges in the same manner and to the same effect as if Notice had been filed prior to the said charges.

#### **8.0 General Provisions**

##### Notice

- 8.1 If sent as follows, notice under this Agreement is considered to be received

- (a) seventy-two (72) hours after the time of its mailing (by registered mail) or faxing, and
- (b) on the date of delivery if hand-delivered,

to the City:

City of Victoria  
 #1 Centennial Square  
 Victoria, BC V8W 1P6  
 Attention: Director of Sustainability Planning and  
 Community Development  
 Fax: 250-361-0386

to the Owner:

0960608 B.C. Ltd.  
 961 Pembroke Street  
 Victoria, BC V8T 1J1  
 Attention: Garde Collins



or upon registration of a strata plan for the Lands, to the Strata Corporation, and to the Owner of any Dwelling Unit that is subject to the restrictions under section 2.1.

If a party identifies alternate contact information in writing to another party, notice is to be given to that alternate address.

If normal mail service or facsimile service is interrupted by strike, work slow-down, force majeure, or other cause,

- (a) notice sent by the impaired service is considered to be received on the date of delivery, and
- (b) the sending party must use its best efforts to ensure prompt receipt of a notice by using other uninterrupted services, or by hand-delivering the notice.

#### Time

8.2 Time is to be the essence of this Agreement.

#### Binding Effect

8.3 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees. In accordance with section 483(6) of the *Local Government Act*, this Agreement and all obligations hereunder is binding on all who acquire an interest in the Lands, and the Owner only during the Owner's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Owner has an interest.

#### Waiver

8.4 The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

#### Headings

8.5 The headings in this Agreement are inserted for convenience and reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.

#### Language

8.6 Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.

#### Equitable Remedies

8.7 The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific

performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.

#### Cumulative Remedies

- 8.8 No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.

#### Entire Agreement

- 8.9 This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.

#### Further Assurances

- 8.10 Each of the parties will do, execute, and deliver, or cause to be done, executed, and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.

#### Amendment

- 8.11 This Agreement may be amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the City and thereafter if it is signed by the City and the Owner.

#### Law Applicable

- 8.12 This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

#### No Derogation from Statutory Authority

- 8.13 Nothing in this Agreement shall:
- (a) limit, impair, fetter or derogate from the statutory powers of the City all of which powers may be exercised by the City from time to time and at any time to the fullest extent that the City is enabled and no permissive bylaw enacted by the City, or permit, licence or approval, granted, made or issued thereunder, or pursuant to statute, by the City shall estop, limit or impair the City from relying upon and enforcing this Agreement; or
  - (b) relieve the Owner from complying with any enactment, including the City's bylaws, or any obligation of the Owner under any other agreement with the City.

#### Joint and Several

- 8.14 The Owner, if more than one, are jointly and severally obligated to perform and observe each and every of the covenants, warranties and agreements herein contained by the Owner to be observed and performed.

Counterpart

- 8.15 This Agreement may be executed in counterparts and delivered by facsimile or emailed PDF file, each of which will have the same effect as if all parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

Effective Date

- 8.16 This Agreement is effective as of the date of the signature of the last party to sign.

**IN WITNESS WHEREOF** the parties have hereunto set their hands as of the dates inscribed at a place within British Columbia:

**THE CORPORATION OF THE CITY OF** )  
**VICTORIA** by its authorized signatories: )

\_\_\_\_\_)  
 MAYOR \_\_\_\_\_ )

\_\_\_\_\_)  
 CITY CLERK \_\_\_\_\_ )

Date signed: \_\_\_\_\_ )

**0960608 B.C. Ltd.** )  
 by its authorized signatory(ies): )

\_\_\_\_\_)  
 \_\_\_\_\_ )

Print Name: Garde Colins )

\_\_\_\_\_)  
 \_\_\_\_\_ )

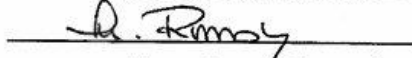
Print Name: Malcolm Harman )

Date signed: \_\_\_\_\_ )

Royal Bank of Canada  
by its authorized signatory(ies):



Print Name: Lesha Holenchuk



Print Name: Michelle Rumsby

Date signed: Sept 17 2019.

Schedule "A"

{see attached Proposed subdivision Plan EPP94996}