City of Burnaby

Meeting April 29, 2024

File: 4250-01

COUNCIL REPORT

TO:	MAYOR & COUNCILLORS
FROM:	DEPUTY CHIEF ADMINISTRATIVE OFFICER AND CHIEF FINANCIAL OFFICER
SUBJECT:	**BURNABY HOUSING AUTHORITY – FINANCIAL CONSIDERATIONS**
PURPOSE:	To provide Council with information on key financial considerations for the Burnaby Housing Authority.

RECOMMENDATION

THAT the report titled "Burnaby Housing Authority – Financial Considerations" dated April 29, 2024, be received for information.

EXECUTIVE SUMMARY

Burnaby City Council has directed staff to create a self-sustaining entity, Burnaby Housing Authority (BHA), that will increase the supply of non-market housing options in the City of Burnaby through four core housing functions: Land and Housing Unit Acquisition, Housing Development, Housing Operation, and Housing Administration of the BHA's portfolio. This report has been submitted for Council's information and describes key financial aspects related to creating and operating the Burnaby Housing Authority, including potential financial impacts of recent changes to housing legislation, cost of construction, funding options, debt financing, loan guarantees, taxation, and financial reporting requirements. While drafting this report, staff have leveraged the advice and expertise of KPMG, who were also engaged in the original evaluation of potential business models for the BHA, to ensure that the City's External Auditors are kept appropriately apprised of this projects progress and potential future impacts to the City's financial statements.

1.0 POLICY SECTION

Establishing a BHA to facilitate the development of non-market housing in Burnaby aligns with several City policies, including:

- *Corporate Strategic Plan* (2022);
- *HOME: Housing and Homelessness Strategy* (2021);
- *Burnaby Housing Needs Report* (2021);
- *Mayor's Task Force on Community Housing Final Report* (2019);
- *Burnaby Social Sustainability Strategy* (2011);
- *Burnaby Economic Development Strategy* (2007); and
- *Official Community Plan (1998).*

2.0 BACKGROUND

In accordance with Council's direction, staff have undertaken the creation of a Burnaby Housing Authority (BHA) as a municipal corporation which is wholly owned by the City of Burnaby. The process required to establish the BHA in a form meeting Council's requirement, as documented in the BHA's draft Articles of Incorporation, has been rigorous, involving numerous steps, substantial consideration, and direction-setting by Council.

The City's has been predominantly involved in delivering non-market housing as a regulator, facilitator and advocate, although in recent years has provided more direct support, including leasing municipal lands at nominal cost, contributing grants from the Community Benefit Bonus Affordable Housing Reserve (CBBAHR) for design and construction of housing, and funding and completing off-site servicing and civil works for non-market housing projects on City lands to expedite project delivery.

On **June 19, 2023**, Council directed staff to collect public feedback to refine the proposed elements and supporting business plan for a Burnaby Housing Authority based on Council direction received to date.

The Burnaby Housing Authority (BHA) is to be established as an arms-length municipal corporation, with the City as the sole shareholder. Housing development has inherent risks, including exposure to market fluctuations, supply chain issues, changing funding and borrowing conditions, and cost escalations. The corporate model enables the ability to limit legal liability to the municipality and provides the structure best able to facilitate delivery of non-market housing, leverage senior government funding programs; operate under separate governance; generate positive net income for long-term sustainability; improve market agility; exercise greater control over operations; expand role in delivery of solutions; improve access to external resources, innovation and expertise; allocate and manage risk; and minimize administrative complexity and costs. Council's direction was informed by materials prepared by staff on the advisability and feasibility of the City establishing a Housing Authority and a report prepared by KPMG assessing potential delivery models of housing programs and services.

The BHA will be governed by an autonomous board of directors appointed by Council and consisting of external members and members of Council. The aim of the BHA is to deliver units to meet the housing needs identified in the HNR, in addition to aligning with other City housing policies, plans and regulations. The BHA's scope of work will comprise four core functions: acquisition of land and housing units, development of housing, operation of housing units (limited to units at or close to market value) and administration of its housing portfolio. Furthermore, the BHA will focus on the following affordability levels and housing tenures: Non-market rental housing; Non-market ownership housing; and Market rental housing, in cases where revenues from such housing would help support the delivery of non-market housing through cross-subsidization.

On **October 16, 2023**, Council approved formation of the Burnaby Housing Authority as a municipal corporation, authorized staff to submit a request to obtain the approval of the Inspector of Municipalities to form the Burnaby Housing Authority as a municipal corporation, and to include specific amounts of funding and financing in the Draft 2024-2028 Financial Plan for the launch of the BHA and highlighted a key objective regarding the level of independence to be achieved by the BHA.

Council directed staff to include the following items in the draft 2024-2028 Financial Plan for the purpose of launching and operationalizing the BHA:

(a) Planned contribution of $2.0 million per year in 2024 to 2028, funded from the Operating Housing Reserve (OHR) for BHA operating expenses including staff wages and benefits, training, office and equipment leases, insurance, office supplies and consultant and legal costs;
(b) Planned contribution of $475,000 in 2024, funded from the CBBAHR for one-time BHA capital expenditures related to start-up, including costs to establish working premises for BHA staff (e.g. tenant improvements for new office space, furniture, desktop technology, security, etc.); and
(c) Planned financing of $100 million over the years from 2024 to 2028 funded from the CBBAHR for BHA affordable housing projects including acquisition of lands and existing housing units; and, design, site-preparation and construction of new housing units.

Council established that a key objective of the BHA is to become operationally self-sufficient. To this end, establishing the right mix of market units to affordable units will be critical to avoid the need for ongoing operating subsidy or operating grants from the City, which will have the potential to directly impact property taxes.

The report submitted to Council on October 16, 2023, also identified that staff would bring forward a draft Partnering Agreement (PA) for Council consideration as part of a forthcoming report. The proposed PA will set out the forms of assistance, including funding and financing, which the City may provide to the BHA and the terms and conditions under which assistance may be provided. Other forms of assistance that the PA would enable the City to provide upon request by the BHA include:

- expedited permit issuances and approvals;
- dedicated City staff to lead projects through the approvals processes;
- capital funding for development projects;
- disposing of City-owned lands to the BHA, either by way of fee simple transfer or ground lease;
- pre-zoning sites approved for disposition to the BHA;
- providing servicing for City sites transferred to the BHA;
- guaranteeing debts or other obligations assumed or incurred by the BHA; and
- loaning money to the BHA.

Following incorporation of the BHA, Council will need to approve the City entering into a PA to permit the City to provide assistance to the BHA in exchange for BHA's provision of services on behalf of the City. Upon the City and BHA entering into the Partnering Agreement, the City would then provide funding to cover the start-up capital costs and one year of operating costs to the BHA, with the remaining four years of operating costs provided in subsequent years on an annual basis. The provision of financing and other forms of assistance would be contingent on Council's approval of the BHA's strategic plan, annual business plan, budget estimate, feasibility study or such other information as the City may require for evaluation of the BHA's financing requests.

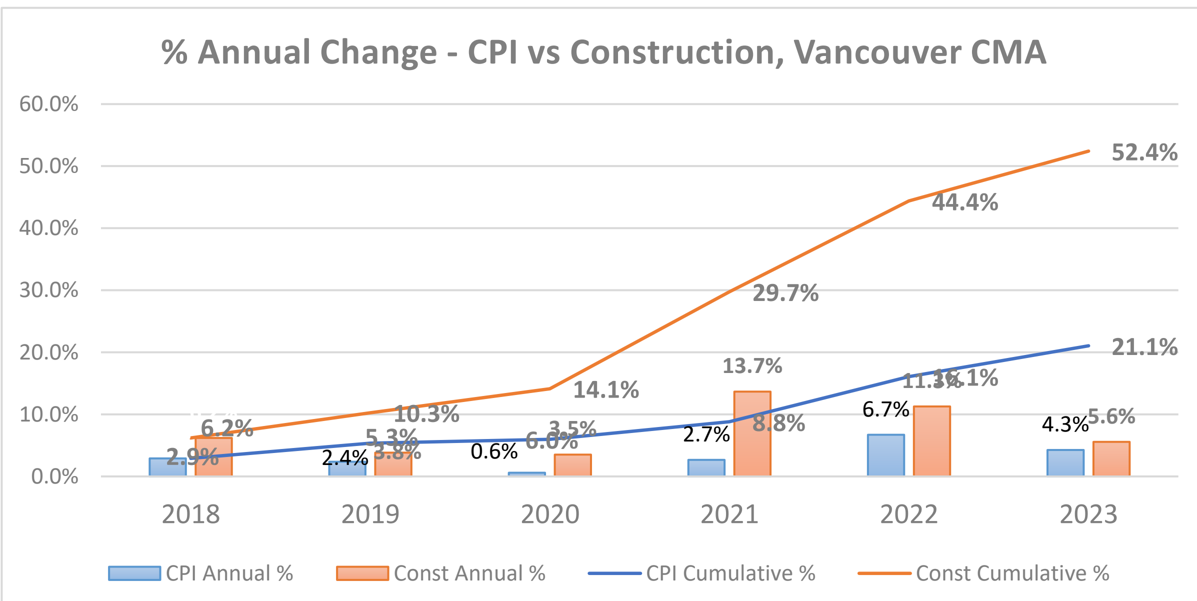
On **November 30, 2023**, three Bills representing significant changes to British Columbia's housing policy received royal assent, thereby introducing important changes to how housing development will be approached. See Attachment 1 – Changes to Housing Legislation for details.

3.0 GENERAL INFORMATION

3.1 COST OF CONSTRUCTION

The cost of construction is the primary factor influencing housing affordability and will be an important factor the BHA will need to consider as part of its requests for City financing.

As illustrated in the following diagram, the cost of residential construction has increased significantly over the last five years, from 2018 to 2023. Over this period, Statistics Canada's Building Construction Price Index for the Vancouver census metropolitan area (CMA) has increased about 46.2%, or an average annual increase of 7.9%; while the overall increase in the Consumer Price Index over the same period has been about 18.2%, or an average annual increase of 3.4%: the cost of construction has increased at over double the rate of general inflation.

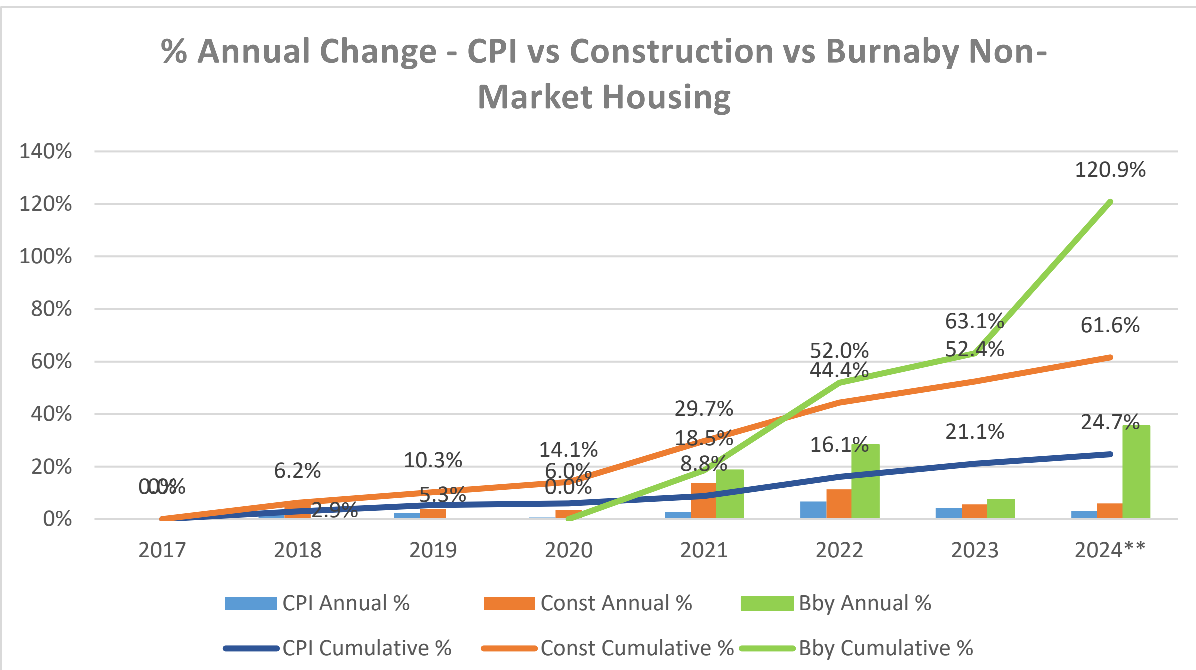


(*source: Statistics Canada*[1,2])

Key factors driving the growth in the cost of construction include shortages of skilled labor, increasing costs of building materials and equipment, and supply chain disruptions.

Construction costs in the Vancouver CMA are anticipated to continue increasing going forward, but at a diminished rate. Given the sector's high demand for labor required to complete projects, high wage growth is expected to continue. At the same time, the relatively high cost of financing is expected to slow construction. Current indications are that prime and overnight interest rates are expected to remain unchanged and near cyclical highs for the next few months and then are expected to begin declining around 2024 Q2.[1] As a result, construction activity will likely continue to slow for the next few quarters as developers delay kicking-off new projects.[2] Looking ahead to 2024, Canadian construction costs are forecast to rise 4% - 6% because of anticipated increases in material costs (3%-5%) and employee wages (4%-6%).[3]

Budgeted costs for construction of non-market housing in Burnaby have risen significantly from 2020 to 2024 for NPO-led, government funded projects (see Attachment 2 – Budgeted Construction Costs for a Sample of Non-Market Housing Projects in Burnaby). On a cost per square-foot of livable space basis, the budgeted cost of construction for non-market housing in Burnaby has increased by about 121% from 2020 to 2024 (an average annual increase of 21.9%) – about double the rate of increase for Statistics Canada's Construction Cost Index for the Vancouver CMA for the same period. Based on this sample, it appears that NPO-led government-financed housing projects in Burnaby are paying a high premium over the private sector for construction services.



The preceding chart provides a comparison between the year-over-year annual and cumulative rates of increase for the CPI for the Vancouver CMA, the Construction Index for the Vancouver CMA, and the budgeted cost per square foot for a sample of Burnaby Non-Market Housing projects (**2024 forecast amounts are used for the CPI and Construction Index):

---

[1] [Live news: Bank of Canada to cut rates this spring, Deloitte says (msn.com)]
[2] JLL Research, U.S. and Canada Construction Trends, 2024 Forecast, p13
[3] JLL Research, U.S. and Canada Construction Trends, 2024 Forecast, p13

In addition, it is insightful to compare the per square foot costs of construction previously noted for a sample of non-market housing projects in Burnaby with an external benchmark of estimated costs of construction for the Vancouver CMA. The Altus Group's Canadian Cost Guide for 2024 estimates hard costs for construction of wood-framed residential condominium buildings, up to six storeys, in the Vancouver CMA, to range from $250 to $350 per square-foot for above ground construction plus $160 to $250 per square-foot for under-ground parking.[4] Increasing the $350 figure by 30% to account for soft costs, we have a benchmark cost of approximately $455 per square foot. Comparing this with the table in Attachment 2, it appears that budgeted costs for non-market housing projects in Burnaby for 2024, which are run by NPO's and funded by multiple-orders of government (e.g. $850 per sqft), may include a premium of $300 to $400 (65% - 88%) per square foot over private sector costs.

Using the average of the most recently published 2024 budgeted rates for two non-market housing projects constructed on City/Regional land as a baseline and given that construction rates are forecast to increase in 2024 by up to 6%, it is reasonable to anticipate that construction costs will be a major consideration that the BHA Board will have to address. The BHA Board will need to work collaboratively with the development industry to reduce the cost of non-market units.

Construction of non-market housing is expensive and will continue to become more expensive. Based on the sample of Burnaby projects included in Attachment #1, the average budgeted cost of construction appears to have increased annually by about 21.9% from 2020 to 2024 – which is over double the annual average rate of increase of 7.9% experienced by the private sector over the same period. In both cases, the rate of inflation for construction services has exceeded municipal returns on average. With legislated investment guidelines that must be followed by municipalities, it is not possible to match these cost increases though a portfolio return.

For the 24-year period from 2000 to 2023, the City received a respectable average annual return of 4.47%, which included a multi-year's period of extremely low historical yields. For the 5-year period from 2019 to 2023 the City's average annual portfolio yield was 3.03%. However, the resulting effect is the housing reserve funds held by the City will rapidly lose their real purchasing-power as time progresses and construction inflation persists.

Opportunities the BHA can pursue to expedite future delivery of housing while also more effectively hedging against increasing construction costs include:

- Using debt to expedite the delivery of housing units and as a hedge against future increases in construction costs.
- Investigating ways to reduce the premium being paid for construction of non-market housing units, endeavoring to achieve private sector rates.

---

[4] go.altusgroup.com/2024-canadian-cost-guide

- Exploring ways to optimize the size of housing units and the amount of associated parking for units to be rented at higher levels of affordability.
- Working with the City and external partners to shorten the approval, funding and delivery pipeline.
- Exploring alternative uses (i.e. investments) of funds designated for future housing projects which may provide a better hedge against construction sector inflation. However, the recent stipulation to limit investments to fixed income securities (S. 183 of the Community Charter) may hinder this opportunity.
- Transferring City-owned land to BHA using nominal land leases.
- Transferring units from the City's current housing portfolio.

3.2 PROJECT FUNDING

Securing project funding is crucial for the land development process, including for the BHA. Potential sources of funding for the BHA include contributions and loans from the City, contributions and loans from third parties and eventually, the BHA's own operating surplus. Pursuant to its Articles, the BHA would be authorized to borrow funds from sources and on terms considered suitable by its directors. Two important restrictions apply:

(1) The BHA is able to borrow money using the City as security only with the City's prior approval through an ordinary resolution.

(2) The BHA is able to borrow money that would require the City to guarantee the borrowing only with the City's prior approval through an ordinary resolution.

The BHA would have three primary sources for project funding: the City, third party funding and private developers.

Key aspects of the various funding sources have been summarized in *Attachment 3 Section 2. – Funding Sources*, including potential funding amounts, eligibility criteria, approval requirements, and terms and conditions.

3.2.1 City Funding

The City's Approved 2024 – 2028 Financial Plan (Plan) includes funding and financing required to launch and operate the BHA during its foundational five years. The Plan includes a planned contribution of $2.0 million per year for years 2024 – 2028, to be funded from the City's Operating Housing Reserve (OHR). A planned contribution of $475,000 was included in 2024, to be funded from the CBBAHR for initial capital expenditures required to launch the BHA. Finally, the Plan will be updated to include financing of up to $100 million, funded from the CBBAHR for BHA affordable housing projects, following Council approval of the BHA's strategic plan and associated requests for assistance.

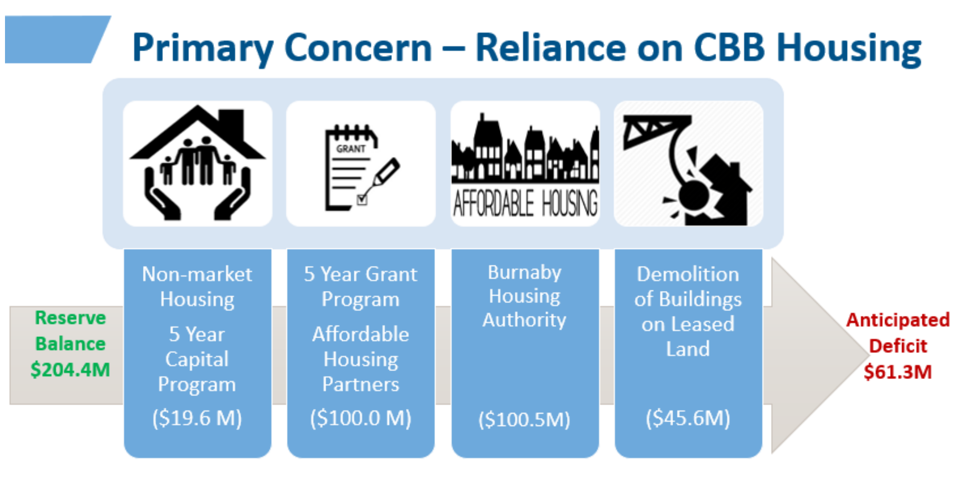
The City's future contributions could come from reserves allocated for housing or interfund borrowing and external borrowing.

3.2.1.1 City Reserves

Depending on the availability of funds, future financing may be drawn from City reserves allocated for housing purposes including the CBBAHR, the Housing Capital Reserve Fund (HCRF), and the OHR; or, may be borrowed internally from other reserves which have an available balance after considering foreseeable needs (interfund borrowing). Consideration would be given to repayment of principle and interest based on, at minimum, the interest that would have otherwise been earned if the funds were invested by the City. In addition to existing reserves, the City may borrow funds externally on a short- or long-term basis from the Municipal Finance Authority (MFA) and then loan these funds to the BHA – see Attachment 4 – Municipal Borrowing Procedures for an overview of the process to be followed for borrowing from the MFA.

To date, the City's CBBAHR has been the City's primary source of capital funding for non-market housing project grants and construction costs. For on-going operational costs, the City also has an OHR; and, for one-time capital financing requirements, the City has the HCRF. Where funding is available in non-housing reserves, the City is also able to do interfund borrowing. Details regarding use of City reserves to fund the BHA are summarized in *Section 1 of Attachment 2 – Funding Sources*.

Finance Department staff recently forecast that CBBAHR funding will be fully consumed within five years. Recent changes to provincial legislation, see Attachment #1 for details, will decrease future developer cash contributions for bonus density. Further, consumption of CBBAHR funds has been accelerated by the recent changes to City policy to use interest earned on the CBBAHR to fund the Operating Housing Reserve (OHR) (2020) and to fund the Housing Demolition Reserve (HDR) (2024). The OHR is funded with interest earned on the CBBAHR; therefore, it will diminish in parallel with the CBBAHR.



(Source: Finance)

Pursuant to entering into a Partnering Agreement with the City, the BHA's access to draws from the $100 million financing approved for housing projects would be approved based on formal requests for City assistance to Council which would include at minimum presentation of a viable business case. Specific approval process requirements would be implemented by City staff following incorporation of the BHA, hiring of the Board of Directors and Officers, and execution of a Partnering Agreement between the BHA and the City.

Funds drawn from City reserves for BHA housing projects may be provided as a contribution, an interest-free loan, a repayable loan with an annual interest rate, or as a mix of all three options. Mirroring the approaches taken by other orders of government such as the BC Housing and CMHC, the City could seek to earn a spread on funds loaned to the BHA; although, any interest rate prescribed would reduce the level of housing affordability the BHA is able to deliver.

Any return paid by the BHA on capital financing provided by the City would diminish the BHA's ability to deliver affordable housing units and delay its ability to become self-sustaining. For example, providing the City with 1% interest on the initial $100M capital financing would require the BHA portfolio of housing unit to yield $1M annually in excess of all operating costs. To achieve this level of return, the number of market rental units would have to be increased significantly. The result would be a portfolio having mostly market rental units and a much lower number of affordable units. Furthermore, funds paid-out to the City as interest will not be available to cover operating expenses or grow the portfolio of housing units, further delaying achieving self-sustainment.

3.2.1.2 External Borrowing

As a new corporate entity without a credit or revenue history and owning no assets of significant value, the BHA will be unable to independently obtain any material amount of third-party financing. As a result, until the BHA demonstrates that it is able to successfully (profitably) carry out its functions without dependence on the City, it will be dependent on the City for financial assistance in the form of contributions, financing, and loan guarantees.

Provincial legislation defines the total amount of debt the City is able to take on. Municipal borrowing is primarily restricted to debt for capital projects and short-term borrowing to manage cash flows. Municipalities are not able to incur long-term debt (debt outstanding for more than a year) to cover day-to-day operating costs. Finally, within BC, municipalities are only able to borrow from the Municipal Finance Authority (MFA).

Liability Servicing Limit[5]

The liability servicing limit defines the maximum threshold for annual debt servicing payments by a BC municipality. The liability servicing limit applies to the cost to service all borrowing, leases, loan guarantees and commitments that are of a capital nature. In this context, debt servicing refers to the principal and interest on debt, lease payments or other commitments to repay the liability and related financing charges. Contractual payments under a Partnering Agreement are also captured by the limitation if the payments relate to items of a capital nature. As of December 31, 2022, the City had a liability servicing limit of $157.8 million ($157,806,090), representing the annual cost to service all borrowing, leases, loan guarantees and general commitments of a capital nature.

Short Term Capital Borrowing

Within the overall annual debt servicing limit, the City is able to take-on short term capital borrowing of up to $50 per capita based on the most recent population census. Short term capital borrowing must be repaid within 5 years. The most recent census (2021) estimated the City of Burnaby's population to be 249,125. As a result, the City has an upper limit of $12.5 million ($12,456,250) of short-term capital borrowing. This borrowing must be repaid within five years of the date of issue with annual payments of about $2.8M ($2,821,634.40) based on an indicative rate of 4.30%.

Short term capital borrowing is approved through a Short-term Capital Borrowing Bylaw. This bylaw must receive approval of the Inspector of Municipalities before adoption by Council. Approval of short-term capital borrowing does not require approval of the electorate.

Long Term Capital Borrowing

The City is able to engage in long-term capital borrowing to fund the acquisition or construction of capital assets such as land, buildings and infrastructure. Long term capital borrowing is initiated by drafting a loan authorization bylaw. This bylaw specifies the purpose, maximum amount to be borrowed and maximum duration of the borrowing. Approval of the loan authorization bylaw requires several steps which take 6-9 months to complete, including: Council approval, guarantee from Metro Vancouver, approval by the Inspector of Municipalities, and may require approval of the electors.

Municipalities may take on annual debt servicing of up to 5% of their liability servicing limit without approval of the electorate[6]; beyond this amount, approval of the electorate is required. The City would be able to take on annual debt servicing payments, including both principal and interest payments, of up to $7.8M ($7,890,304.50) without obtaining approval of the electorate (the Approval Free Liability Zone): this represents a total long-term debt of approximately $122.3M ($122,267,205.05) based on a 30-year term and a 4.93% indicative interest rate.

---

[5] Municipal Liabilities Regulation (gov.bc.ca) , s.6, Part 2 – Exemptions from Elector Approval Requirement
[6] Municipal liability servicing limits - Province of British Columbia (gov.bc.ca)

Finally, over the longer term, **with prior approval of the electorate**, the City is able to take on annual liability servicing payments of up to $157.8M ($157,806,090): this represents total debt of approximately $2.4B ($2,445,344,100.90) based on a 30 year term and a 4.93% indicative interest rate as of April 19, 2024.

Type of Borrowing	Debt	Annual Debt Servicing Cost	Electoral Approval (Y/N)
Short Term	$12.5M	$2.8M	N
Long Term	$122.3M	$7.9M	N
Long Term	$2.4B	$157.8M	Y

The City has significant borrowing capacity to support the BHA in the short and medium term while the BHA fully develops its four core functions and becomes financially self-sustaining. The City would have to manage the repayments of the debt, internally or through property taxation, until the BHA is able to repay the City. As a result, the City will have to budget for annual debt servicing costs, identify the source of revenues for debt servicing and develop a schedule of anticipated future borrowing.

3.2.2 Third Party Funding

With the City acting as a guarantor prior to the BHA establishing requisite revenue streams and credit history, the BHA is able to borrow from the following entities:

- BC Housing
- Canada Mortgage and Housing Corporation

Both the CMHC's Affordable Housing Fund and BC Housing Community Housing Fund require guarantees for repayable financing obtained for housing construction projects. Eligibility criteria for the CMHC's Affordable Housing Fund notes that the CMHC may require additional risk mitigation measures as it deems appropriate including equity retention, replacement reserves, collateral security, and guarantees; and in all cases, the borrower or guarantor will be required to provide their guarantee for 100% of the repayable loan during project construction, rent up, and stabilization. [7]

Once a partnering agreement is in place between the BHA and City, to provide a guarantee or security for BHA borrowing, Council will need to adopt a Loan Authorization Bylaw, with the approval of the Inspector.[8] Any guarantees provided by the City of the BHA's obligations would be disclosed in the notes to the City's audited financial statements. In addition, all loan guarantees will be factored into the City's liability servicing limit.

---

[7] National Housing Co-Investment Fund (cmhc-schl.gc.ca)
[8] Section 179, Full Multi - Community Charter (gov.bc.ca)

CMHC and BC Housing Financing are conditional upon achieving specific target levels of affordability. Council's mandate is for the BHA to be self-sustaining, which will require the BHA to use market rental to cross subsidize the affordable units. The inclusion of high proportions of market rental units in the BHA developments will limit the BHA's access to BC Housing and CMHC low interest financing. This will require the BHA to use alternative financing sources for the market units.

3.2.3 PRIVATE DEVELOPERS

In addition to currently owned City units, operation and administration of incremental housing units, which become available as a result of the City's inclusionary zoning requirements, may also be transferred to the BHA. Further, density bonusing can continue to be strong funding drivers for the BHA, should Council policies support continued density bonusing within the Provincial guidelines.

3.3 FUTURE FUNDING REQUIREMENTS

Should the BHA take longer than 5 years to become self-sustaining, the City Council would need to determine what ongoing support looks like. Further future funding requirements for the BHA will include:

- Incremental BHA staffing to support provision of the four core housing functions and capital projects
- Incremental City staffing to support financial planning, debt management, operations, and reporting requirements; and, staff to provide services on the BHA's behalf to the point where they are self-sufficient (e.g. hiring, legal, procurement, technology management)
- City Land – to be leased for projects at nominal consideration
- Annual funding contributions toward end of lease demolition costs;
- Capital funding grants
- Costs to provide offsite servicing on housing sites
- Funding to service interest costs on construction debt
- Property transfer taxes on land leases
- The BHA will be subject to 5% GST on taxable capital and operating cost

Per current policy, upon completion of the construction of a non-market housing project, the City will make annual transfers of funding from the CBBAHR to the Housing Demolition Reserve (HDR) to cover end-of-project demolition and site restoration requirements.

Finally, depending upon the availability of funds in the OHR, the BHA may make future requests for assistance from the City to finance or fund gaps in operating costs, such as staffing, building maintenance and repairs, and interest. Council will need to review funding sources through reserves availability, borrowing room, property taxation or other sources of funding.

3.4 TAXATION MATTERS

Where the City is fully or partially exempt from a number of taxes, the BHA will need to consider the potential impact of various taxes, including:

- Income Taxes
- GST / HST
- Property Taxation
- Property Transfer Taxes
- Land Leases

Income Taxes

The BHA is wholly owned by the City. As a result, to the extent that 90% of its revenue is derived from activities carried on within the geographical boundaries of the municipality, the BHA's taxable income should be exempt from income taxes under paragraph 149(1)(d.5) of the Income Tax Act (Canada) (ITA).

GST/HST

The Excise Tax Act (ETA) recognizes that municipalities may create para-municipal organizations to deliver specific municipal services. A para-municipal organization of a municipal body is generally subject to the same GST/HST rules as the municipal body. To qualify as a para-municipal organization of a municipality, the organization must be designated as a municipality by the Canada Revenue Agency (CRA).

For organizations designated as municipalities, certain supplies will be GST exempt. Municipalities and their para-municipalities may provide services or supplies to each other – for example accounting. If the para-municipality is designated as a municipality by the CRA, these supplies would be tax exempt. [9] For example, an organization can request to be designated as a municipality in respect of its supplies of Rent Geared to Income (RGI) housing to low to moderate-income households.[10] If designated, the organization would be able to claim the municipal public service body rebate for GST paid on purchases or payable on expenses incurred to provide the RGI housing.

BHA would not qualify to be designated as a municipality: it is neither a charity, cooperative housing corporation, a nonprofit organization or public institution.[11] As a result, BHA would be subject to the same rules as a for profit entity for GST/HST purposes.

---

[9] GST/HST Information for Municipalities - Canada.ca
[10] Municipal designation of organizations providing rent-geared-to-income housing - Canada.ca
[11] Municipal designation of organizations providing rent-geared-to-income housing - Canada.ca

Enhanced GST Housing Rebate

On December 15, 2023, the Government of Canada gave Royal Assent to Bill C-56, The Affordable Housing and Groceries Act (the “Act”). The Act amends the Excise Tax Act (ETA) to implement the enhanced GST rebate for purpose-built residential properties as announced on September 14, 2023. Bill C-56 increases the GST rent rebate on new purpose-build rental housing from 36% to 100%.

Bill C-56 increases the GST Rental Rebate on new “purpose-built” rental housing from 36% to 100%. The enhanced GST Rental Rebate will apply to each housing project undertaken by the BHA commencing on dates between September 13, 2023 and December 31, 2030 which are substantially completed before 2036.

Property Transfer Taxes

Under the Property Transfer Tax Act, a property transfer tax (PTT) is generally imposed on transactions which transfer an estate in fee simple of land, through sale or contribution, or a right to occupy land under a lease agreement. In all such cases, the fair market value is to be used for calculation of the PTT. For leases, PTT is required when the term is 30 years or more, where the term is determined both from the original lease and any subsequent lease modification agreement that extends the term and which would result in a cumulative term of 30 years or more.

The PTT is payable at the time of lease registration and is calculated based on the fair market value of the lease and using the following thresholds:

1%	Less than $200,000
2%	Exceeds $200,000 and is less than $2,000,000
3%	Exceeds $2,000,000

In addition, if residential property is worth over $3,000,000, a further 2% tax is applied to the residential property value greater than $3,000,000.

Effective January 1, 2024, a Purpose-built rental exemption was introduced by the Province where an entity is purchasing a new qualifying purpose-built rental building, in which case the further 2% portion of the PTT on any amount of a residential property value that exceeds $3,000,000 will be exempt. Should the BHA purchase a new purpose-built rental, it should consider applying for this exemption.

The BHA would not be eligible for any exemptions under the Property Transfer Tax Act. Regarding PTT, where the term of the lease is over 30 years, the BHA will be required to pay the PTT.

Property Taxes

Pursuant the City’s Permissive Tax Exemptions policy issued February 7, 2023, with respect to private or non-profit social housing and health care facilities, with the exception of Community Charter Section 220(1)(i) a permissive tax exemption shall not be considered for residential facilities. The BHA would not be eligible for any exemptions from municipal property taxes.

Nominal Leases

There are no provisions within any of the taxation statutes prohibiting the use of nominal leases to supply land; however, a number of the statutes impose requirements around the valuation of the land for calculation of the applicable tax.

For income tax purposes, there is no specific provision in the Income Tax Act (ITA) that may impose restriction to this type of arrangement between a municipality and an entity described in section 149(1)(d.5). The CRA would view transactions between the BHA and the City as non-arm length transactions.

With respect to GST, section 155 of the Excise Tax Act (ETA) requires parties not dealing at arm's length to transact at fair market value (FMV).

Where the City provides property or services to the BHA for consideration less than FMV, it will be deemed to have made the supply at FMV and will be required to collect GST on this value where BHA is acquiring the goods or services for consumption or use in commercial activities: the fair market value of the lease must be used to calculate the GST for a nominal lease transaction.

3.5 REPORTING REQUIREMENTS

BHA

The BHA would prepare audited financial statements on an annual basis. Once incorporated, the BHA would be classified as an Other Government Organization and would prepare its financial statements in accordance with Canadian public sector accounting standards as prescribed by the Public Sector Accounting Board. It will have a fiscal year end of December 31.

The BHA must hold an annual general meeting, at which its financial statements are presented to the shareholder for consideration and appointment of directors. The BHA must also present its financial statements to City Council at an open Council meeting.

The BHA's pro forma opening statement of financial position will reflect:

- The City acquiring a single share from the BHA, at a nominal cost;
- A contribution from the City, funded from the CBBAHR for BHA capital expenditures; and,
- A contribution from the City, funded from the Operating Housing Reserve for BHA operating expenditures.

At some point in the future if the BHA becomes self-sustaining, demonstrated by its ability, in the normal course of operations, to maintain its operations and meets its liabilities from revenues received from sources other than the City, the BHA could qualify as a Government Business Enterprise (GBE) and would then prepare its financial statements on the same basis as a private sector business.

City

The City's financial statements are prepared in accordance with Canadian public sector accounting standards as prescribed by the Public Sector Accounting Board.

From the City's perspective, the BHA will be considered a Government Unit so the City will consolidate the BHA into the City's financial statements. Consolidation is a method of accounting that combines the accounts of the City and the BHA on a line-by-line basis and eliminates inter-organization balances and transactions. One impact of this line-by-line consolidation is that the City will report any short-term debt, long term debt and sinking fund schedules of the BHA as the City's.

The pro forma of the BHA's opening year will reflect:

- The City acquiring a single share from the BHA, at a nominal cost;
- A contribution from the City, funded from the CBBAHR Housing Reserve for BHA capital expenditures; and,
- A contribution from the City, funded from the Operating Housing Reserve for BHA operating expenditures.

Depending on the way BHA housing projects are funded, the City may also need to record long-term debt, either acquired by the City from the MFA on behalf of the BHA, or recognized through the consolidation process, when this debt is acquired directly by the BHA from third parties.

In addition to the presentation of consolidated account balances, the City's financial statements will also need to reflect various items in the notes accompanying the financial statements, including:

- Significant Accounting Policies – Basis of consolidation
- Related party transactions
- Contingent Liabilities
- Loan Guarantees
- Contractual Obligations

At some point in the future if the BHA qualifies as a Government Business Enterprise (GBE), the City will account for it using the modified equity method, which avoids commingling the BHA's budget and actual results with those of the City on a line-by-line basis. It also avoids including the BHA's gross own debt in the City's financial statements, as a BHA is expected to repay its debt from its own revenues.

3.6 FINANCIAL EXPOSURE

The BHA is a separate legal entity, as a result, activities undertaken by the BHA, including direct liabilities resulting from the operation are isolated within the corporation. The structure offers a level of protection against BHA liabilities for the City as shareholder as it would not be the one undertaking the activities of the BHA.

To the extent the City has guaranteed any of the obligations of the BHA or has obtained loans on behalf of the BHA, the City has exposure. The City's financial exposure for debt will also extend to any of the BHA's contractual obligations.

While creation of the BHA offers opportunities for addressing housing needs in Burnaby, Council will need to diligently manage any associated risks to maintain the City's positive reputation. The BHA may face scrutiny from various stakeholders, including residents, media, and advocacy groups. As the BHA ramps-up operations land acquisition, construction costs, ongoing maintenance and staffing costs will require significant resources. It is likely that the BHA may be compared with other similar organizations. Effective communication and engagement with residents, community organizations, and other stakeholders will be essential.

At some point in the future, should the BHA not proceed, future costs to unwind the BHA will potentially include legal costs to assign contracts, severance packages for BHA staff, settlement of the BHA's debt obligations and other contractual obligations, and salaries and benefits for incremental City staff to maintain any on-going services.

4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT

Not Applicable.

5.0 FINANCIAL CONSIDERATIONS

As discussed within this report

Respectfully submitted,

Noreen Kassam, Deputy Chief Administrative Officer and Chief Financial Officer

ATTACHMENTS

Attachment 1 – Changes to Housing Legislation

Attachment 2 – Budgeted Construction Costs for a Sample of Non-Market Housing in Burnaby

Attachment 3 – Funding Sources

Attachment 4 – Municipal Borrowing Procedures

REPORT CONTRIBUTORS

This report was prepared by Richard Mester, Manager Business Process and Reporting and reviewed by Bob Klimek, Deputy General Manager Finance, Doug Spindler, Director Treasury Services, Ed Kozak, General Manager Planning and Development, and Wendy Tse, Director Community Planning.