

**CITY OF BURNABY**

**BYLAW NO. 14758**

A BYLAW to authorize the execution of a Housing Agreement  
for the non-market rental housing development at  
7786 and 7792 6<sup>th</sup> Street

The Council of the City of Burnaby ENACTS as follows:

1. This Bylaw may be cited as **BURNABY HOUSING AGREEMENT (7786 AND 7792 6<sup>TH</sup> STREET) BYLAW 2025.**
  
2. The City is hereby authorized to enter into a housing agreement with Metro Vancouver Housing Corporation, substantially in the form set out in Schedule “A” (the “**Housing Agreement**”), for the non-market rental housing development on lands legally described as:  
  
PID: 032-310-102  
Lot 1 District Lot 28 Group 1 New Westminster District Plan EPP131571
  
3. The Corporate Officer is hereby authorized and empowered to execute the Housing Agreement on behalf of the City.

|                          |        |        |
|--------------------------|--------|--------|
| FIRST READING            | day of | , 2025 |
| SECOND READING           | day of | , 2025 |
| THIRD READING            | day of | , 2025 |
| RECONSIDERED AND ADOPTED | day of | , 2025 |

MAYOR

CORPORATE OFFICER

**HOUSING AGREEMENT**  
**(Section 483 *Local Government Act*)**

**THIS AGREEMENT** is dated for reference \_\_\_\_\_, 2025,

BETWEEN:

**METRO VANCOUVER HOUSING CORPORATION**

Incorporation No. 0129319

4515 Central Boulevard

Burnaby, BC V5H 0C6

(the “**Owner**”)

AND:

**CITY OF BURNABY**

4949 Canada Way

Burnaby, B.C. V5G 1M2

(the “**City**”)

**WHEREAS:**

- A. Section 483 of the *Local Government Act* permits the City to enter into and, by legal notation on title, note on title to lands, housing agreements which may include, without limitation, conditions in respect to the form of tenure of housing units, availability of housing units to classes of persons, administration of housing units and rent which may be charged for housing units;
- B. The Owner is the registered owner of the Lands (as hereinafter defined) at the time of execution of this Agreement and has constructed or will construct the Development on the Lands; and
- C. The Owner, and the City wish to enter into this Agreement (as hereinafter defined) to provide the Non-Market Units as affordable housing on the terms and conditions set out in this Agreement.

**NOW THEREFORE** in consideration of ten dollars (\$10.00) and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by both parties), and in consideration of the promises exchanged below, the Owner and the City covenant and agree as follows:

## ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following words have the following meanings:

- (a) **“Agreement”** means this agreement together with all schedules, attachments and priority agreements attached hereto;
- (b) **“BC Housing”** means the British Columbia Housing Management Commission or its successor in function;
- (c) **“CD Plan”** means the comprehensive development plan for the Lands entitled “Eastburn Square Affordable Housing” prepared by VIA – A Perkins Eastman Studio and filed with the City’s General Manager Planning and Development;
- (d) **“City”** means the City of Burnaby;
- (e) **“Daily Amount”** means \$100.00 per day as of January 1, 2018, and adjusted annually on January 1<sup>st</sup> of each subsequent year by a percentage equal to the percentage of the increase in the Vancouver Headline CPI for the period from January 1 to December 31 of the preceding calendar year;
- (f) **“Deep Subsidy Income Limit”** means an annual gross household income that does not exceed the maximum applicable Income Assistance amount based on household composition, as determined by the Ministry of Social Development and Poverty Reduction from time to time and if such gross annual income limit is no longer published by the Ministry of Social Development and Poverty Reduction, then **“Deep Subsidy Income Limit”** means the last such gross annual income limit published by the Ministry of Social Development and Poverty Reduction adjusted annually, on January 1<sup>st</sup> of each subsequent year, by a percentage equal to the percentage of the increase in the Vancouver Headline CPI for the period January 1 to December 31 of the preceding calendar year;
- (g) **“Deep Subsidy Unit”** means a Non-Market Unit occupied by an Eligible Tenant (Deep Subsidy);
- (h) **“Development”** means the development of a residential rental building containing no less than **174 units** of non-market rental housing constructed or to be constructed on the Lands in accordance with the CD Plan;
- (i) **“Eligible Tenant”** means together, Eligible Tenant(s) (Deep Subsidy), Eligible Tenant(s) (RGI), and Eligible Tenant(s) (LEM), or each of them as the context requires, but excluding: (A) any directors or officers of the Owner, and their respective direct family members; and (B) if the Owner contracts a third party to manage and administer the Non-Market Units such third party, any directors, officers, and their respective direct family members;

- (j) “**Eligible Tenant(s) (Deep Subsidy)**” means a Household with a gross annual household income that does not exceed the Deep Subsidy Income Limit;
- (k) “**Eligible Tenant(s) (LEM)**” means a Household with a gross annual household income that does not exceed the Moderate Income Limit for the applicable unit type;
- (l) “**Eligible Tenant(s) (RGI)**” means a Household with a gross annual household income that does not exceed the Housing Income Limit (HILs) for the applicable unit type;
- (m) “**Household**” means:
  - (i) a person; or
  - (ii) two or more persons related by blood, marriage, adoption or foster care; or
  - (iii) a group of not more than five unrelated non-transient persons living together as a single group in a dwelling unit and using common cooking facilities, excluding boarders and lodgers;
- (n) “**Housing Covenant**” means the agreements, covenants and charges granted by the Owner to the City (which includes covenants pursuant to section 219 of the *Land Title Act*) charging the Lands, registered under number \_\_\_\_\_, as it may be amended or replaced from time to time;
- (o) “**Housing Income Limit (HILs)**” means the gross annual income limit for the HILs Lower Mainland planning area associated with the City of Burnaby, and published by BC Housing from time to time, and if such gross annual income limit is no longer published by BC Housing, then “**Housing Income Limit (HILs)**” means the last such gross annual income limit published by BC Housing adjusted annually, on January 1<sup>st</sup> of each subsequent year, by a percentage equal to the percentage of the increase in the Vancouver Headline CPI for the period January 1 to December 31 of the preceding calendar year;
- (p) “**Income Assistance**” means social assistance, social security or another form of payment that the provincial or federal government provides to people in need who do not have any other resources;
- (q) “**Interpretation Act**” means the *Interpretation Act*, R.S.B.C. 1996, Chapter 238 together with all amendments thereto and replacements thereof;
- (r) “**Land Title Act**” means the *Land Title Act*, R.S.B.C. 1996, Chapter 250 together with all amendments thereto and replacements thereof;

- (s) “**Lands**” means the following lands and premises situate in the City of Burnaby and any part thereof, including a building or a portion of a building, into which said lands are subdivided:

Parcel Identifier: 032-310-102

LOT 1 DISTRICT LOT 28 GROUP 1 NEW WESTMINSTER DISTRICT  
PLAN EPP131571;

- (t) “**Low-End-of-Market Unit**” or “**LEM Unit**” means a Non-Market Unit occupied by an Eligible Tenant (LEM);
- (u) “**Local Government Act**” means the *Local Government Act*, R.S.B.C. 2015, Chapter 1, together with all amendments thereto and replacements thereof;
- (v) “**LTO**” means the New Westminster Land Title Office or its successor;
- (w) “**Moderate Income Limit**” means:

- (i) for LEM Units with less than two (2) bedrooms, a gross household income that does not exceed the median income for families without children in British Columbia, as determined by BC Housing from time to time. For 2024, this figure is \$84,780.00; and
- (ii) for LEM Units with two (2) or more bedrooms, a gross household income that does not exceed the median income for families with children in British Columbia, as determined by BC Housing from time to time. For 2024, this figure is \$134,140.00,

and if such gross annual income limit is no longer published by BC Housing, then “**Moderate Income Limit**” means the last such gross annual income limit published by BC Housing adjusted annually, on January 1st of each subsequent year, by a percentage equal to the percentage of the increase in the Vancouver Headline CPI for the period January 1 to December 31 of the preceding calendar year;

- (x) “**Non-Market Units**” means no less than 174 residential units within the Development and located within the Development that are rented or offered for rent at the Permitted Rent, and “**Non-Market Unit**” means any such residential unit;
- (y) “**Owner**” means the party described on page 1 of this Agreement as the Owner and any subsequent owner of the Lands or any part thereof;
- (z) “**Permitted Rent**” means an amount to be paid by the Eligible Tenant as follows:
- A. in respect of a Deep Subsidy Unit, an amount that does not exceed the Income Assistance shelter allowance, as established from time to time by the Provincial government, for the applicable household size and composition;

- B. in respect of an RGI Unit, an amount calculated as 30% of the gross household income of the Eligible Tenant; and
  - C. in respect of an LEM Unit, an amount calculated as 10% below the estimated market conditions across the City of Burnaby for buildings of comparable age and with comparable amenities. Actual rents will be calculated based on the then most current market rent appraisal at the time a tenancy agreement for an LEM Unit is entered into with the Eligible Tenant (LEM);
- (aa) “**Public Utility**” means any utility or service provider that is regulated by the British Columbia Utilities Commission, or its successor in function;
  - (bb) “**Residential Tenancy Act**” means the *Residential Tenancy Act*, S.B.C. 2002, Chapter 78 together with all amendments thereto and replacements thereof;
  - (cc) “**RGI Unit**” means a Non-Market Unit occupied by an Eligible Tenant (RGI);
  - (dd) “**Tenancy Agreement**” means a tenancy agreement, lease, license or other agreement granting rights to occupy a Non-Market Unit on a month-to-month basis or for a fixed term not exceeding twelve (12) months;
  - (ee) “**Term**” means the period commencing on the date of adoption of Housing Agreement (7786 and 7792 6<sup>th</sup> Street) Bylaw No. 14758 and expiring sixty (60) years from the date of issuance of the final occupancy certificate for the Development.
  - (ff) “**Vancouver Headline CPI**” means the All-Items Consumer Price Index for Vancouver, B.C. published from time to time by Statistics Canada, or its successor in function; and
  - (gg) “**Zoning Bylaw**” means the *Burnaby Zoning Bylaw, 1965*, and amendments thereto and re-enactments thereof.

## 1.2 In this Agreement:

- (a) reference to the singular includes a reference to the plural, and *vice versa*, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;

- (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (f) the provisions of section 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (g) time is of the essence;
- (h) all dollar amounts referred to herein are in the lawful currency of Canada;
- (i) all provisions are to be interpreted as always speaking;
- (j) reference to a “party” is a reference to a party to this Agreement and to that party’s respective successors, assigns, trustees, administrators and receivers;
- (k) reference to a “day”, “month”, “quarter” or “year” is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided; and
- (l) where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including”.

## **ARTICLE 2**

### **USE AND OCCUPANCY OF NON-MARKET UNITS**

- 2.1 The Owner will construct and maintain on the Lands, during the Term, Non-Market Units in the following mix of unit sizes:
  - (a) 9 studio units;
  - (b) 69 one-bedroom units;
  - (c) 87 two-bedroom units; and
  - (d) 9 three-bedroom units.
- 2.2 The Owner will not change the mix of size set out in section 2.1 without the prior written consent of the City.
- 2.3 The Owner will ensure that throughout the Term the Permitted Rents for the Non-Market Units will be no greater than those set out in this Agreement and the unit mix for Permitted Rents shall be at a minimum as follows:
  - (a) 20% of the Non-Market Units are Deep Subsidy Units;
  - (b) 20% of the Non-Market Units are RGI Units; and

- (c) 60% of the Non-Market Units are LEM Units.
- 2.4 Notwithstanding any other provision in this Agreement, the City and the Owner agree that from time to time the mix of types of Non-Market Units may fluctuate as the income of Eligible Tenants changes over time, that the Owner may change the type of Non-Market Unit to match the gross annual income of the tenant and increase rent as applicable to the Non-Market Unit type, and that the Owner will endeavor to return the overall mix of types of Non-Market Units to the levels set out in this Agreement.
- 2.5 The Owner agrees that, during the Term, each Tenancy Agreement will include a covenant requiring that the applicable Non-Market Unit will only be used and occupied as the permanent residence of the applicable Eligible Tenant, or permitted occupant, in accordance with this Agreement and any permits issued by the City with respect to the Development and the CD Plan. For the purposes of this Article 2, “permanent residence” means that the Non-Market Unit is used as the usual, main, regular, habitual, principal residence, abode or home of the Eligible Tenant.
- 2.6 The Owner will not rent, lease, license or otherwise permit occupancy of any Non-Market Unit except in accordance with the following conditions:
- (a) the Non-Market Units will only be used or occupied as a permanent residence by an Eligible Tenant pursuant to a Tenancy Agreement and not be made available by the Owner for short term vacation rental;
  - (b) the monthly rent payable for Non-Market Units at the time the Tenancy Agreement is entered into will not exceed the Permitted Rent for a Deep Subsidy Unit, RGI Unit, or LEM Unit, as applicable;
  - (c) the Owner will not require the Eligible Tenant or any permitted occupant to pay any extra charges or fees for use of any common areas, facilities or amenities, including without limitation bicycle storage, sanitary sewer, storm sewer, water, or other utilities, property or similar taxes; provided, however, that an Owner may charge the Eligible Tenant fees for parking, heat treatment room, laundry, cable television, telephone, other telecommunications, gas, or electricity, and may require an Eligible Tenant to obtain liability insurance for use of common areas;
  - (d) the Owner will not require the Eligible Tenant or any permitted occupant to pay any move in or move out fees or charges;
  - (e) the Owner will include in each Tenancy Agreement, to the extent permitted by the *Residential Tenancy Act*, a clause entitling the Owner to terminate the Tenancy Agreement if:
    - (i) the Non-Market Unit is occupied as a permanent residence by a person or persons other than an Eligible Tenant in the Eligible Tenant’s absence; or



- (ii) the Eligible Tenant subleases the Non-Market Unit or assigns the Tenancy Agreement in whole or in part and in the case of each breach, the Owner hereby agrees with the City that the Owner may forthwith provide to the Eligible Tenant a notice of termination, which notice of termination shall provide that the termination of the tenancy shall be effective two (2) months following the date of the notice of termination or as required by the *Residential Tenancy Act*, or such longer period as the Owner considers to be fair and reasonable given the circumstances of the termination;
  - (f) the Tenancy Agreement will identify all permanent occupants of the Non-Market Unit and will stipulate that any individual over the age of 18 not identified in the Tenancy Agreement will be prohibited from residing at the Non-Market Unit for more than 30 consecutive days or more than 45 days total in any calendar year; and
  - (g) the Owner will forthwith deliver a true copy of the Tenancy Agreement for a Non-Market Unit to the City as soon as practicable upon demand by the City.
- 2.7 The Owner will not permit a Tenancy Agreement for a Non-Market Unit to be subleased or assigned.
- 2.8 The Owner will comply with all applicable laws, regulations, bylaws and orders in respect to the construction, maintenance, repair, operation and use of the Development and Non-Market Units. It is acknowledged by the Owner that each Non-Market Unit is intended to be made available to a Household in need of affordable rental housing that qualifies as an Eligible Tenant.

### **ARTICLE 3 MANAGEMENT OF NON\_MARKET UNITS**

- 3.1 The Owner covenants and agrees, at its cost and expense, to:
- (a) maintain the Non-Market Units in a good state of repair and fit for habitation and to comply with all laws, including health and safety standards applicable to the Lands;
  - (b) advise any prospective tenant of a Non-Market Unit that the Non-Market Units are subject to this Agreement and provide a copy of Articles 2 and 3 of this Agreement to a tenant or prospective tenant upon request.

### **ARTICLE 4 REPORTING**

- 4.1 On an annual basis, the Owner will deliver to the City copies of any annual operating budget and annual financial review required to be delivered to BC Housing for that year.
- 4.2 Within 30 days after receiving notice from the City, the Owner will in respect of each Non-Market Unit, provide to the City a statutory declaration, substantially in the form (with, in the City Solicitor's discretion such further amendments or additions as deemed necessary

and that can be lawfully disclosed by the Owner to the City without violation of privacy or other applicable laws) attached as Appendix A, sworn (without personal liability) by a representative of the Owner, containing all of the information required to complete the statutory declaration, together with any other information required by the City, acting reasonably.

- 4.3 The City may request such statutory declaration in respect to each Non-Market Unit no more than once in any calendar year; provided, however, notwithstanding that the Owner may have already provided such statutory declaration in the particular calendar year, the City may request and the Owner shall provide to the City such further statutory declarations as requested by the City in respect to a Non-Market Unit if, in the City's determination, acting reasonably, the City believes that the Owner is in breach of any of its obligations under this Agreement.
- 4.4 The Owner hereby irrevocably authorizes the City to make such inquiries as it considers necessary in order to confirm that the Owner is complying with this Agreement.

## **ARTICLE 5 INSURANCE**

- 5.1 The Owner will insure, or cause to be insured, the Non-Market Units and all buildings and structures within the Development to the full replacement cost thereof against perils normally insured against by reasonable and prudent owners of similar buildings and lands in Burnaby and those additional policies set out in Appendix B attached hereto.
- 5.2 Upon request, the Owner will provide to the City proof of insurance coverage required by section 5.1 of this Agreement.

## **ARTICLE 6 DAMAGE OR DESTRUCTION**

- 6.1 The Owner covenants and agrees with the City that in the event of partial damage to or partial destruction of all or any of the Non-Market Units, the Owner will as soon as reasonably possible repair or replace such damage or destruction to a standard comparable to the standard of the Non-Market Units being repaired or replaced immediately prior to the event of damage or destruction.
- 6.2 In the event of the complete or substantially complete destruction of the Non-Market Units to the extent of at least 75% of the full replacement cost thereof, as determined by the City's Chief Building Inspector, the Owner will either make best economic efforts to reconstruct or replace the Non-Market Units with new Non-Market Units in a manner comparable to the Non-Market Units being replaced immediately prior to the event of damage or destruction within three years, or, with the assistance of the City, plan and construct a replacement development to provide a similar or greater number of affordable dwelling units. This Agreement and the Housing Covenant will apply to the replacement Non-Market Units, to the same extent and in the same manner as such agreements apply to the original Non-Market Units, unless and until a new housing agreement and section 219

covenant are entered into between the Owner and the City with respect to the replacement Non-Market Units, at the discretion of the City.

## **ARTICLE 7 DEFAULT AND REMEDIES**

- 7.1 The Owner agrees that, in addition to any other remedies available to the City under this Agreement or the Housing Covenant or at law or in equity, if a Non-Market Unit is used or occupied in breach of this Agreement or the Housing Covenant, or if the Owner is otherwise in breach of any of its obligations under this Agreement or the Housing Covenant, the Owner will pay the Daily Amount to the City for every day that the breach continues after forty-five (45) days' written notice from the City to the Owner stating the particulars of the breach. For greater certainty, the City is not entitled to give written notice with respect to any breach of the Agreement until any applicable cure period, if any, has expired. The Daily Amount is due and payable five (5) business days following receipt by the Owner of an invoice from the City for the same.
- 7.2 The Owner acknowledges and agrees that a default by the Owner of any of its promises, covenants, representations or warranties set-out in the Housing Covenant also constitutes a default under this Agreement.

## **ARTICLE 8 DISPUTE RESOLUTION**

- 8.1 If a dispute arises between the parties out of or in connection with this Agreement the parties agree that the following dispute resolution process will be used:
- (a) a meeting will be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute;
  - (b) if, within fourteen (14) days after such meeting or such further period agreed to by the parties in writing, the parties have not succeeded in negotiating a resolution of the dispute, the parties agree to try to resolve the dispute by participating in a structured negotiation conference with a mediator agreed upon by the parties or, failing agreement, under the Mediation Rules of Procedure of the British Columbia International Commercial Arbitration Centre, in which case the appointing authority is the British Columbia International Commercial Arbitration Centre; and
  - (c) after dispute resolution attempts have been made under sections 8.1(a) and 8.1(b), any remaining issues in dispute will be determined by arbitration under the *Arbitration Act* (British Columbia) if the parties mutually agree to arbitration, and failing such agreement, either party may commence an action in the British Columbia courts to resolve any remaining issues in dispute.

## **ARTICLE 9 MISCELLANEOUS**

### **9.1 Housing Agreement**

The Owner acknowledges and agrees that:

- (a) this Agreement includes a housing agreement entered into under section 483 of the *Local Government Act*;
- (b) the City may file notice of this Agreement in the LTO against the title to the Lands; and
- (c) this Agreement and, if applicable, any amendments thereto are binding on all persons who acquire an interest in the Lands.

### **9.2 No Compensation**

The Owner acknowledges and agrees that no compensation is payable, and the Owner is not entitled to and will not claim any compensation from the City, for any decrease in the market value of the Lands or for any obligations on the part of the Owner and its successors in title which at any time may result directly or indirectly from the operation of this Agreement.

### **9.3 Modification**

This Agreement may be modified or 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.

### **9.4 Indemnity**

The Owner will indemnify and save harmless the City and each of its elected officials, officers, and employees from and against all claims, demands, actions, loss, damage, costs (including legal fees on a solicitor-client basis) and liabilities, which all or any of them will or may be liable for or suffer or incur or be put to by reason of or arising out of:

- (a) any negligent act or omission of the Owner, or its officers, directors, employees, agents, contractors or other persons for whom at law the Owner is responsible relating to this Agreement;
- (b) any requirements or obligations hereunder with respect to the construction, maintenance, repair, ownership, lease, license, operation, management or financing of any Non-Market Unit or the enforcement of any Tenancy Agreement; and/or
- (c) without limitation, any legal or equitable wrong on the part of the Owner or any breach of this Agreement by the Owner,

except to the extent arising from the negligence or wilful misconduct of the City or its elected officials, officer, and/or employees.

#### 9.5 **Release**

The Owner hereby releases and forever discharges the City and each of its elected officials, officers, and employees from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of or which would or could not occur but for:

- (a) any requirements or obligations hereunder with respect to the construction, maintenance, repair, ownership, lease, license, operation or management of the Lands or any Non-Market Unit under this Agreement; and/or
- (b) the exercise by the City of any of its rights under this Agreement or an enactment;

except to the extent arising from the negligence or wilful misconduct of the City or its elected officials, officers, or employees.

#### 9.6 **Survival**

The indemnity and release set out in this Agreement will survive the termination or discharge of this Agreement.

#### 9.7 **Limitation on Owner's Obligations**

The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands.

#### 9.8 **City's Powers Unaffected**

This Agreement does not:

- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Lands;
- (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
- (c) affect or limit any enactment relating to the use or subdivision of the Lands; or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lands.

#### 9.9 **Agreement for Benefit of City Only**

The Owner and the City agree that:

- (a) this Agreement is entered into only for the benefit of the City;
- (b) this Agreement is not intended to protect the interests of the Owner, any Eligible Tenant, or any future owner, lessee, occupier or user of the Lands or the Development or any portion thereof, including any Non-Market Unit; and
- (c) the City may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.

#### 9.10 **No Public Law Duty**

Where the City is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the City is under no public law duty of fairness or natural justice in that regard and agrees that the City may do any of those things in the same manner as if it were a private party and not a public body.

#### 9.11 **Notice**

Any notice required to be served or given to a party herein pursuant to this Agreement will be sufficiently served or given if delivered, to the postal address of the Owner set out in the records at the LTO, and in the case of the City addressed:

To: City of Burnaby  
4949 Canada Way  
Burnaby, BC V5G 1M2

Attention: Director, Legislative Services, with copies to City Solicitor and General Manager Planning and Development

or to the most recent postal address provided in a written notice given by each of the parties to the other. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery.

#### 9.12 **Enuring Effect**

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

#### 9.13 **Severability**

If any provision of this Agreement is found to be invalid or unenforceable, such provision or any part thereof will be severed from this Agreement and the resultant remainder of this Agreement will remain in full force and effect.

**9.14 Waiver**

All remedies of the City will be cumulative and may be exercised by the City in any order or concurrently in case of any breach and each remedy may be exercised any number of times with respect to each breach. Waiver of or delay by the City in exercising any or all remedies will not prevent the later exercise of any remedy for the same breach or any similar or different breach.

**9.15 Sole Agreement**

This Agreement, and any documents signed by the Owners contemplated by this Agreement (including, without limitation, the Housing Covenant), represent the whole agreement between the City and the Owner respecting the use and occupation of the Non-Market Units, and there are no warranties, representations, conditions or collateral agreements made by the City except as set forth in this Agreement. In the event of any conflict between this Agreement and the Housing Covenant, this Agreement will, to the extent necessary to resolve such conflict, prevail.

**9.16 Further Assurance**

Upon request by the City the Owner will forthwith do such acts and execute such documents as may be reasonably necessary in the opinion of the City to give effect to this Agreement.

**9.17 Equitable Remedies**

The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for any 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.

**9.18 No Joint Venture**

Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.

**9.19 Applicable Law and Jurisdiction**

Unless the context otherwise requires, the laws of British Columbia (including, without limitation, the *Residential Tenancy Act*) will apply to this Agreement and all statutes referred to herein are enactments of the Province of British Columbia. The parties agree to attorn to the exclusive jurisdiction of the courts of British Columbia.

**9.20 Contract**

By executing and delivering this Agreement the Owner intends to create a contract under section 483 of the *Local Government Act*.

**9.21 Joint and Several**

If the Owner is comprised of more than one person, firm or body corporate, then the covenants, agreements and obligations of the Owner will be joint and several.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the day and year first above written.

**METRO VANCOUVER HOUSING CORPORATION,**

by its authorized signatory(ies):

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

**CITY OF BURNABY,**

by its authorized signatory:

Per: \_\_\_\_\_

Name:

Title:



**APPENDIX A****STATUTORY DECLARATION**

|                                     |   |                               |
|-------------------------------------|---|-------------------------------|
| <b>CANADA</b>                       | ) | <b>IN THE MATTER OF A</b>     |
|                                     | ) | <b>HOUSING AGREEMENT WITH</b> |
| <b>PROVINCE OF BRITISH COLUMBIA</b> | ) | <b>CITY OF BURNABY</b>        |
|                                     | ) | <b>("Housing Agreement")</b>  |

TO WIT:

I, \_\_\_\_\_ of \_\_\_\_\_ (the "**Owner**"), British Columbia, do solemnly declare that in my capacity as a director or officer of the Owner and without personal liability:

1. I am an authorized signatory of the Owner of the Non-Market Units (as defined in the Housing Agreement) at \_\_\_\_\_, and make this declaration to the best of my personal knowledge.
2. This declaration is made pursuant to the Housing Agreement in respect of the Non-Market Units.
3. For the period from \_\_\_\_\_ to \_\_\_\_\_, the Non-Market Units were occupied only by Eligible Tenants (as defined in the Housing Agreement) whose rent and gross applicable income appear below:

*[rent and incomes of Eligible Tenants]*

4. The unit size, occupancy status and rents charged each month for the Non-Market Units are as follows:

*[Unit Size, Occupancy Status, Tenancy Start Date and Rents for each Non-Market Unit]*

5. The Owner is in compliance with the Owner's obligations under the Housing Agreement.

6. I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

DECLARED BEFORE ME at the City of )  
\_\_\_\_\_, in the Province of British )  
Columbia, this \_\_\_\_\_ day of )  
\_\_\_\_\_, 20\_\_\_\_. )

\_\_\_\_\_)  
A Commissioner for Taking Affidavits in the )  
Province of British Columbia )

\_\_\_\_\_  
DECLARANT

**APPENDIX B****INSURANCE**

1. The Owner, at its own cost, maintain throughout the term of the Housing Agreement, all of the following insurance:
  - (a) “all risks” (including flood and earthquake) property insurance on all insurable property and broad form boiler and machinery insurance in respect of the Lands (the “**Property**”), and all objects owned, leased, or for which the Owner is legally responsible, or operated by the Owner or by others on behalf of the Owner in the Property or relating to or serving the Property, with reasonable deductibles, and which insurance will cover all property owned or leased by the Owner or for which the Owner is legally liable located on or about the Property, including but not limited to, all buildings, structures, contents, and the Owner’s improvements, in an amount not less than the full appraised replacement cost thereof and including a by-law endorsement; and
  - (b) commercial general liability insurance written on an occurrence form with inclusive limits of not less than Five Million Dollars (\$5,000,000) per occurrence, which insurance will provide indemnity against claims arising out of bodily injury and/or death to persons and against loss or damage to or destruction of the property of others, including the property of the City of Burnaby (the “**City**”), and for the loss of use thereof, and will also:
    - (i) include all operations of the Owner, owners’ protective, products, completed operations, intentional acts to protect persons or property, personal injury, employers and blanket contractual liability coverage, provisions for cross liability, severability of interests and occurrence property damage, and
    - (ii) name the City as an additional insured.
2. The Owner will deliver to the City certificates evidencing the required insurance signed by the Owner’s insurers or, if required by the City, certified copies of the insurance policies.
3. The Owner will cause each policy of insurance to:
  - (c) be primary, non-contributing with, and not in excess of any other insurance available to the City;
  - (d) contain an endorsement prohibiting cancellation or adverse material change in coverage without thirty (30) days’ prior written notice to the City by registered mail;
  - (e) contain a waiver, where the City is insured, in respect of the respective interests of the City of any provision in any such insurance policies with respect to any breach

or violation of any warranties, representations, declarations or conditions in such policies;

- (f) contain a waiver or waivers of subrogation by the insurer in favour of the City; and
- (g) be in a form and with such insurers reasonably satisfactory to the City.