



City of Richmond

Report to Committee

To: Planning Committee **Date:** December 18, 2018
From: Kim Somerville **File:** 08-4057-05/2018-Vol 01
 Manager, Community Social Development
Re: **Housing Agreement Bylaw No. 9959 to Permit the City of Richmond to Secure Affordable Housing Units at 6560, 6600, 6640 and 6700 No. 3 Road (Bene Richmond Development Ltd.)**

Staff Recommendation

That Housing Agreement (6560, 6600, 6640 and 6700 No. 3 Road) Bylaw No. 9959 be introduced and given first, second and third readings to permit the City to enter into a Housing Agreement substantially in the form attached hereto, in accordance with the requirements of section 483 of the *Local Government Act*, to secure the Affordable Housing Units required by the Rezoning Application RZ 15-694855.

Kim Somerville
 Manager, Community Social Development
 (604-247-4671)

Att. 1

| REPORT CONCURRENCE | | |
|--|-------------------------------------|---------------------------------------|
| ROUTED TO: | CONCURRENCE | CONCURRENCE OF GENERAL MANAGER |
| Law | <input checked="" type="checkbox"/> | |
| Development Applications | <input checked="" type="checkbox"/> | |
| REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE | INITIALS: | APPROVED BY CAO |
| | | |

Staff Report

Origin

The purpose of this report is to recommend that Council adopt Housing Agreement Bylaw No. 9959 to secure at least 698 m² (7,510 ft²) or nine affordable housing units in the proposed development located at 6560, 6600, 6640 and 6700 No. 3 Road (Attachment 1).

This report and bylaw supports Council's 2014-2018 Term Goal #2 A Vibrant, Active and Connected City:

Continue the development and implementation of an excellent and accessible system of programs, services, and public spaces that reflect Richmond's demographics, rich heritage, diverse needs, and unique opportunities, and that facilitate active, caring, and connected communities.

This report and bylaw also supports Council's 2014-2018 Term Goal #3 A Well-Planned Community:

Adhere to effective planning and growth management practices to maintain and enhance the livability, sustainability and desirability of our City and its neighbourhoods, and to ensure the results match the intentions of our policies and bylaws.

This report also supports the Social Development Strategy Goal #1: Enhance Social Equity and Inclusion:

Strategic Direction #1: Expand Housing Choices

This report and bylaw are also consistent with the Richmond Affordable Housing Strategy, 2017–2027 adopted on March 12, 2018, which specifies the creation of affordable rental housing units as a key housing priority for the City. As the rezoning application was received prior to July 24, 2017, it is subject to grandfathering of the five per cent affordable housing contribution rate. This rezoning introduces the development of a total of approximately 166 residential units (RZ 15-694855).

Rezoning Application RZ 15-694855 was given second and third readings at the Public Hearing on June 18, 2018 for the redevelopment of 6560, 6600, 6640 and 6700 No. 3 Road. The registration of a Housing Agreement and Housing Covenant are conditions of the Rezoning Application, which secures nine affordable housing units with maximum rental rates and tenant income as established by the City's Affordable Housing Strategy.

The proposed Housing Agreement Bylaw for the subject development (Bylaw No. 9959) is presented. It is recommended that the Bylaw be introduced and given first, second and third readings. Following adoption of the Bylaw, the City will be able to execute the Housing Agreement and arrange for notice of the agreement to be filed in the Land Title Office.

Analysis

The nine affordable housing units proposed represent five per cent of the total residential floor area and six of these units will be family-friendly two and three bedroom units. All of the units have been designed to Basic Universal Housing standards. The nine affordable housing units will be clustered on levels 5, 6, and 7 on the north east corner of the development. As the applicant has agreed to enter into a partnership with a non-profit housing operator to manage the development’s affordable housing units, the City has accepted clustering of the required affordable housing units.

The subject development application involves a development consisting of approximately 166 residential units including nine affordable rental housing units. The affordable housing units anticipated to be delivered are as follows:

| Unit Type | Affordable Housing Strategy Requirements | | | Project Targets |
|--------------|---|-------------------------|------------------------------|-----------------|
| | Min. Permitted Unit Area | Max. Monthly Unit Rent* | Total Max. Household Income* | # of Units |
| Studio | 37 m ² (400 ft ²) | \$811 | \$34,650 or less | 3 |
| 2-BR | 69 m ² (741 ft ²) | \$1,218 | \$46,800 or less | 3 |
| 3-BR | 91 m ² (980 ft ²) | \$1,480 | \$58,050 or less | 3 |
| TOTAL | 698 m² (7,510 ft²) | Varies | Varies | 9 |

*To be adjusted annually based on the terms of the Housing Agreement.

The Housing Agreement restricts the annual household incomes and maximum rents for eligible occupants and specifies that the units must be made available at affordable rental housing rates in perpetuity. The Agreement includes provisions for annual adjustment of the maximum annual housing incomes and rental rates in accordance with City requirements. The Agreement also specifies that occupants of the affordable rental housing units shall have unlimited access to all required residential indoor and outdoor amenity spaces as well as all required affordable housing parking spaces and associated shared facilities (e.g. visitor parking, bike storage, bike maintenance and loading) in the development. Affordable housing tenants will not be charged additional costs (i.e. move in/move out fees). The Agreement also restricts the owner from imposing any age-based restrictions on the tenants of the affordable housing units. The applicant has agreed to the terms and conditions of the Housing Agreement and to register notice of the Housing Agreement on title to secure the nine affordable rental units.

Financial Impact

None.


Conclusion

In accordance with the *Local Government Act* (Section 483), adoption of Bylaw No. 9959 is required to permit the City to enter into a Housing Agreement which together with the housing

December 18, 2018

- 4 -

covenant will act to secure nine affordable rental units that are proposed in association with Rezoning Application RZ 15-694855.

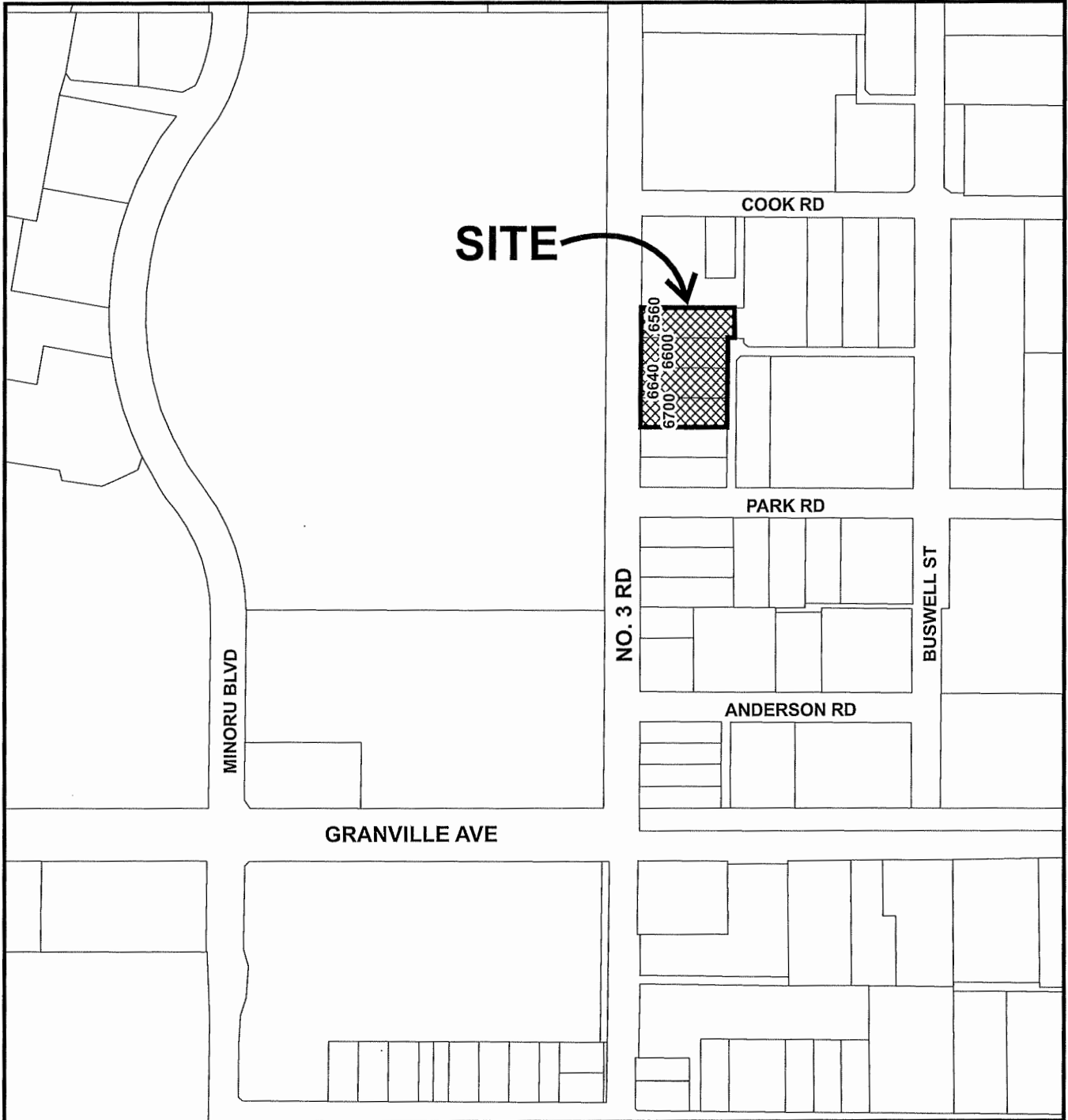


Cody Spencer
Program Manager, Affordable Housing
(604-247-4916)

Att. 1: Map of 6560, 6600, 6640 and 6700 No. 3 Road



City of Richmond



6560, 6600, 6640 and
6700 No. 3 Road
CNCL - 110

Original Date: 10/30/18

Revision Date:

Note: Dimensions are in METRES



City of Richmond

Bylaw 9959

Housing Agreement (6560, 6600, 6640 and 6700 No. 3 Road) Bylaw No. 9959

The Council of the City of Richmond enacts as follows:

- The Mayor and City Clerk for the City of Richmond are authorized to execute and deliver a housing agreement, substantially in the form set out as Schedule A to this Bylaw, with the owner of the lands legally described as:

- PID: 003-433-005 Lot 4 Section 9 Block 4 North Range 6 West New Westminster District Plan 7312
- PID: 003-420-418 Lot 129 Section 9 Block 4 North Range 6 West New Westminster District Plan 25835
- PID: 003-420-370 Lot 128 Section 9 Block 4 North Range 6 West New Westminster District Plan 25835
- PID: 001-468-375 Lot 127 Section 9 Block 4 North Range 6 West New Westminster District Plan 25685

This Bylaw is cited as **Housing Agreement (6560, 6600, 6640 and 6700 No. 3 Road) Bylaw No. 9959**

FIRST READING

SECOND READING

THIRD READING

ADOPTED

| |
|---|
| CITY OF RICHMOND |
| APPROVED for content by originating dept. |
| <i>LS</i> |
| APPROVED for legality by Solicitor |
| <i>JH</i> |

MAYOR

CORPORATE OFFICER

Schedule A

To Housing Agreement (6560, 6600, 6640 and 6700 No. 3 Road) Bylaw No. 9959

HOUSING AGREEMENT BETWEEN BENE RICHMOND DEVELOPMENT LTD. AND
THE CITY OF RICHMOND

HOUSING AGREEMENT
(Section 483 Local Government Act)

THIS AGREEMENT is dated for reference November _____, 2018,

BETWEEN:

BENE (RICHMOND) DEVELOPMENT LTD. (BC0974579), a company duly incorporated under the laws of the Province of British Columbia and having its registered office at 148 – 13071 Vanier Place, Richmond BC V6V 2J1

(the “**Owner**” as more fully defined in section 1.1 of this Agreement)

AND:

CITY OF RICHMOND, a municipal corporation pursuant to the *Local Government Act* and having its offices at 6911 No. 3 Road, Richmond, British Columbia, V6Y 2C1

(the “**City**” as more fully defined in section 1.1 of this Agreement)

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 owner of the Lands (as hereinafter defined); and
- C. The Owner and the City wish to enter into this Agreement (as herein defined) to provide for affordable housing on the terms and conditions set out in this Agreement,

In consideration of \$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) **“Affordable Housing Strategy”** means the Richmond Affordable Housing Strategy approved by the City on March 12, 2018, and containing a number of recommendations, policies, directions, priorities, definitions and annual targets for affordable housing, as may be amended or replaced from time to time;
- (b) **“Affordable Housing Unit”** means a Dwelling Unit or Dwelling Units designated as such in accordance with a building permit and/or development permit issued by the City and/or, if applicable, in accordance with any rezoning consideration applicable to the development on the Lands and includes, without limiting the generality of the foregoing, the Dwelling Unit charged by this Agreement;
- (c) **“Agreement”** means this agreement together with all schedules, attachments and priority agreements attached hereto;
- (d) **“Building”** means any building constructed, or to be constructed, on the Lands, or a portion thereof, including each air space parcel into which the Lands may be Subdivided from time to time. For greater certainty, each air space parcel will be a Building for the purpose of this Agreement;
- (e) **“Building Permit”** means the building permit authorizing construction on the Lands, or any portion(s) thereof;
- (f) **“City”** means the City of Richmond;
- (g) **“City Solicitor”** means the individual appointed from time to time to be the City Solicitor of the Law Division of the City, or his or her designate;
- (h) **“Common Amenities”** means all indoor and outdoor areas, recreational facilities and amenities that are designated for common use of all residential occupants of the Developments, or all Tenants of Affordable Housing Units in the Development, through the Development Permit process, including without limitation visitor parking, the required affordable housing parking, loading bays, bicycle storage, electric vehicle charging stations, fitness facilities, outdoor recreation facilities, and related access routes;
- (i) **“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;

- (j) **“Daily Amount”** means \$100.00 per day as of January 1, 2019 adjusted annually thereafter by adding thereto an amount calculated by multiplying \$100.00 by the percentage change in the CPI since January 1, 2019, to January 1 of the year that a written notice is delivered to the Owner by the City pursuant to section 6.1 of this Agreement. In the absence of obvious error or mistake, any calculation by the City of the Daily Amount in any particular year shall be final and conclusive;
- (k) **“Development”** means the mixed-use residential, office and commercial development to be constructed on the Lands;
- (l) **“Development Permit”** means the development permit authorizing development on the Lands, or any portion(s) thereof;
- (m) **“Director of Development”** means the individual appointed to be the chief administrator from time to time of the Development Applications Division of the City and his or her designate;
- (n) **“Dwelling Unit”** means a residential dwelling unit or units located or to be located on the Lands whether those dwelling units are lots, strata lots or parcels, or parts or portions thereof, and includes single family detached dwellings, duplexes, townhouses, auxiliary residential dwelling units, rental apartments and strata lots in a building strata plan and includes, where the context permits, an Affordable Housing Unit;
- (o) **“Eligible Tenant”** means a Family having a cumulative gross annual income of:
 - (i) in respect to a studio unit, \$34,650.00 or less;
 - (ii) in respect to a one-bedroom unit, \$38,250.00 or less;
 - (iii) in respect to a two-bedroom unit, \$46,800.00 or less; or
 - (iv) in respect to a three or more bedroom unit, \$58,050.00 or less

provided that, commencing January 1, 2019, the annual incomes set-out above shall be adjusted annually on January 1st of each year this Agreement is in force and effect, by a percentage equal to the percentage of the increase in the CPI for the period January 1 to December 31 of the immediately preceding calendar year. If there is a decrease in the CPI for the period January 1 to December 31 of the immediately preceding calendar year, the annual incomes set-out above for the subsequent year shall remain unchanged from the previous year. In the absence of obvious error or mistake, any calculation by the City of an Eligible Tenant's permitted income in any particular year shall be final and conclusive;

- (p) **“Family”** means:
 - (i) a person;

- (ii) two or more persons related by blood, marriage or adoption; or
- (iii) a group of not more than 6 persons who are not related by blood, marriage or adoption;
- (q) “**GST**” means the Goods and Services Tax levied pursuant to the *Excise Tax Act*, R.S.C., 1985, c. E-15, as may be replaced or amended from time to time;
- (r) “**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 from time to time, in respect to the use and transfer of the Affordable Housing Units;
- (s) “**Interpretation Act**” means the *Interpretation Act*, R.S.B.C. 1996, Chapter 238, together with all amendments thereto and replacements thereof;
- (t) “**Land Title Act**” means the *Land Title Act*, R.S.B.C. 1996, Chapter 250, together with all amendments thereto and replacements thereof;
- (u) “**Lands**” means certain lands and premises legally described as:
 - (i) PID: 003-433-005, Lot 4 Section 9 Block 4 North Range 6 West New Westminster District Plan 7312;
 - (ii) PID: 003-420-418, Lot 129 Section 9 Block 4 North Range 6 West New Westminster District Plan 25835;
 - (iii) PID: 003-420-370, Lot 128 Section 9 Block 4 North Range 6 West New Westminster District Plan 25835; and
 - (iv) PID: 001-468-375, Lot 127 Section 9 Block 4 North Range 6 West New Westminster District Plan 25685,as may be Subdivided from time to time, and including a Building or a portion of a Building;
- (v) “**Local Government Act**” means the *Local Government Act*, R.S.B.C. 2015, Chapter 1, together with all amendments thereto and replacements thereof;
- (w) “**LTO**” means the New Westminster Land Title Office or its successor;
- (x) “**Manager, Community Social Development**” means the individual appointed to be the Manager, Community Social Development from time to time of the Community Services Department of the City and his or her designate;
- (y) “**Owner**” means the party described on page 1 of this Agreement as the Owner and any subsequent owner of the Lands or of any part into which the Lands are

Subdivided, and includes any person who is a registered owner in fee simple of an Affordable Housing Unit from time to time;

- (z) **“Permitted Rent”** means no greater than:
- (i) \$811.00 (exclusive of GST) a month for a studio unit;
 - (ii) \$975.00 (exclusive of GST) a month for a one-bedroom unit;
 - (iii) \$1,218.00 (exclusive of GST) a month for a two-bedroom unit; and
 - (iv) \$1,480.00 (exclusive of GST) a month for a three (or more) bedroom unit,
- provided that, commencing January 1, 2019, the rents set-out above shall be adjusted annually on January 1st of each year this Agreement is in force and effect, by a percentage equal to the percentage of the increase in the CPI for the period January 1 to December 31 of the immediately preceding calendar year. In the event that, in applying the values set-out above, the rental increase is at any time greater than the rental increase permitted by the *Residential Tenancy Act*, then the increase will be reduced to the maximum amount permitted by the *Residential Tenancy Act*. If there is a decrease in the CPI for the period January 1 to December 31 of the immediately preceding calendar year, the permitted rents set-out above for the subsequent year shall remain unchanged from the previous year. In the absence of obvious error or mistake, any calculation by the City of the Permitted Rent in any particular year shall be final and conclusive;
- (aa) **“Real Estate Development Marketing Act”** means the *Real Estate Development Marketing Act*, S.B.C. 2004, Chapter 41, together with all amendments thereto and replacements thereof;
- (bb) **“Residential Tenancy Act”** means the *Residential Tenancy Act*, S.B.C. 2002, Chapter 78, together with all amendments thereto and replacements thereof;
- (cc) **“Strata Property Act”** means the *Strata Property Act* S.B.C. 1998, Chapter 43, together with all amendments thereto and replacements thereof;
- (dd) **“Subdivide”** means to divide, apportion, consolidate or subdivide the Lands, or the ownership or right to possession or occupation of the Lands into two or more lots, strata lots, parcels, parts, portions or shares, whether by plan, descriptive words or otherwise, under the *Land Title Act*, the *Strata Property Act*, or otherwise, and includes the creation, conversion, organization or development of “cooperative interests” or “shared interest in land” as defined in the *Real Estate Development Marketing Act*;
- (ee) **“Tenancy Agreement”** means a tenancy agreement, lease, license or other agreement granting rights to occupy an Affordable Housing Unit; and

- (ff) **“Tenant”** means an occupant of an Affordable Housing Unit by way of a Tenancy Agreement.

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) any reference to any enactment is to the enactment in force on the date the Owner signs this Agreement, and to subsequent amendments to or replacements of the enactment;
- (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 provisions are to be interpreted as always speaking;
- (i) 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. Wherever the context so requires, reference to a "party" also includes an Eligible Tenant, agent, officer and invitee of the party;
- (j) 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;
- (k) 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"; and
- (l) the terms "shall" and "will" are used interchangeably and both will be interpreted to express an obligation. The term "may" will be interpreted to express a permissible action.

**ARTICLE 2
USE AND OCCUPANCY OF AFFORDABLE HOUSING UNITS**

- 2.1 The Owner agrees that each Affordable Housing Unit may only be used as a permanent residence occupied by one Eligible Tenant. An Affordable Housing Unit must not be occupied by the Owner, the Owner's family members (unless the Owner's family members qualify as Eligible Tenants), or any tenant or guest of the Owner, other than an Eligible Tenant. For the purposes of this Article, "permanent residence" means that the Affordable Housing Unit is used as the usual, main, regular, habitual, principal residence, abode or home of the Eligible Tenant.
- 2.2 Within 30 days after receiving notice from the City, the Owner must, in respect of each Affordable Housing 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) attached as Appendix A, sworn by the Owner, containing all of the information required to complete the statutory declaration. The City may request such statutory declaration in respect to each Affordable Housing 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 an Affordable Housing Unit if, in the City's absolute determination, the City believes that the Owner is in breach of any of its obligations under this Agreement.
- 2.3 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.
- 2.4 The Owner agrees that notwithstanding that the Owner may otherwise be entitled, the Owner will not:
- (a) be issued with a Development Permit unless the Development Permit includes the Affordable Housing Units;
 - (b) be issued with a Building Permit unless the Building Permit includes the Affordable Housing Units; and
 - (c) occupy, nor permit any person to occupy any Dwelling Unit or any portion of any Building, in part or in whole, constructed on the Lands and the City will not be obligated to permit occupancy of any Dwelling Unit or Building constructed on the Lands until all of the following conditions are satisfied:
 - (i) the Affordable Housing Units and related uses and areas have been constructed to the satisfaction of the City;
 - (ii) the Affordable Housing Units have received final building permit inspection granting occupancy; and

- (iii) the Owner is not otherwise in breach of any of its obligations under this Agreement or any other agreement between the City and the Owner in connection with the development of the Lands.

**ARTICLE 3
DISPOSITION AND ACQUISITION OF AFFORDABLE HOUSING UNITS**

- 3.1 The Owner will not permit an Affordable Housing Unit Tenancy Agreement to be subleased or assigned.
- 3.2 If this Housing Agreement encumbers more than one Affordable Housing Unit, then the Owner may not, without the prior written consent of the City Solicitor, sell or transfer less than all Affordable Housing Units located in the Development in a single or related series of transactions with the result that when the purchaser or transferee of the Affordable Housing Units becomes the owner, the purchaser or transferee will be the legal and beneficial owner of not less than all the Affordable Housing Units located in the Development. Without limiting the foregoing, the Owner shall not Subdivide the Lands in a manner that creates one or more Affordable Housing Units into a separate air space parcel without the prior written consent of the City;
- 3.3 Subject to the requirements of the *Residential Tenancy Act*, the Owner will ensure that each Tenancy Agreement:

- (a) includes the following provision:

“By entering into this Tenancy Agreement, the Tenant hereby consents and agrees to the collection of the below-listed personal information by the Landlord and/or any operator or manager engaged by the Landlord and the disclosure by the Landlord and/or any operator or manager engaged by the Landlord to the City and/or the Landlord, as the case may be, of the following personal information which information will be used by the City to verify and ensure compliance by the Owner with the City’s strategy, policies and requirements with respect to the provision and administration of affordable housing within the municipality and for no other purpose, each month during the Tenant’s occupation of the Affordable Housing Unit:

- (i) a statement of the Tenant’s annual income once per calendar year;
- (ii) number of occupants of the Affordable Housing Unit;
- (iii) number of occupants of the Affordable Housing Unit under 18 years of age;
- (iv) number of occupants of the Affordable Housing Unit over 65 years of age;
- (v) a statement of before tax employment income for all occupants over 18 years of age; and

- (vi) total income for all occupants of the Affordable Housing Unit;”
 - (b) defines the term “Landlord” as the Owner of the Affordable Housing Unit; and
 - (c) includes a provision requiring the Tenant and each permitted occupant of the Affordable Housing Unit to comply with this Agreement.
- 3.4 At all times that this Agreement encumbers the Lands, the Owner shall retain and maintain in place a non-profit organization acceptable to the City to operate and manage all of the Affordable Housing Units in accordance with this Agreement and in accordance with the Housing Covenant. All Affordable Housing Units must be managed and operated by one non-profit organization.
- Without limiting the foregoing, the non-profit organization retained pursuant to this section 3.4 must have as one of its prime objectives the operation of affordable housing within the City of Richmond. At the request of the City, from time to time, the Owner shall deliver to the City a copy the agreement (fully signed and current) with the non-profit organization, to evidence the Owner’s compliance with this Section 3.4.
- 3.5 If the Owner sells or transfers any Affordable Housing Units, the Owner will notify the City Solicitor of the sale or transfer within 3 days of the effective date of sale or transfer.
- 3.6 The Owner must not rent, lease, license or otherwise permit occupancy of any Affordable Housing Unit except to an Eligible Tenant and except in accordance with the following additional conditions:
- (a) the Affordable Housing Unit will be used or occupied only pursuant to a Tenancy Agreement;
 - (b) the monthly rent payable for the Affordable Housing Unit will not exceed the Permitted Rent applicable to that class of Affordable Housing Unit;
 - (c) the Owner will allow the Tenant and any permitted occupant and visitor to have full access to and use and enjoy all Common Amenities in the Development and will not Subdivide the Lands unless all easements and rights of way are in place to secure such use;
 - (d) the Owner will not require the Tenant or any permitted occupant to pay any of the following:
 - (i) move-in/move-out fees;
 - (ii) strata fees;
 - (iii) strata property contingency reserve fees;
 - (iv) extra charges or fees for use of any Common Amenities, common property, limited common property, or other common areas, facilities or

{00498523; 6 }

*Housing Agreement (Section 483 Local Government Act)
6560, 6600, 6640 and 6700 No. 3 Road
Application No. RZ 15-694855 Bylaw 9855
Rezoning Consideration No. 7*

amenities, including without limitation parking, bicycle storage, electric vehicle charging stations or related facilities;

- (v) extra charges or fees for the use of sanitary sewer, storm sewer, water; or
- (vi) property or similar tax;

provided, however, that if the Affordable Housing Unit is a strata unit and the following costs are not part of strata or similar fees, the Owner may charge the Tenant the Owner's cost, if any, of:

- (vii) providing cable television, telephone, other telecommunications, or electricity fees (including electricity fees and charges associated with the Tenant's use of electrical vehicle charging infrastructure); and
- (viii) installing electric vehicle charging infrastructure (in excess of that pre-installed by the Owner at the time of construction of the Development), by or on behalf of the Tenant;

- (e) the Owner will attach a copy of this Agreement to every Tenancy Agreement;
- (f) the Owner will include in the Tenancy Agreement a clause requiring the Tenant and each permitted occupant of the Affordable Housing Unit to comply with this Agreement;
- (g) the Owner will include in the Tenancy Agreement a clause entitling the Owner to terminate the Tenancy Agreement if:
 - (i) an Affordable Housing Unit is occupied by a person or persons other than an Eligible Tenant;
 - (ii) the annual income of an Eligible Tenant rises above the applicable maximum amount specified in section 1.1(o) of this Agreement;
 - (iii) the Affordable Housing Unit is occupied by more than the number of people the City's building inspector determines can reside in the Affordable Housing Unit given the number and size of bedrooms in the Affordable Housing Unit and in light of any relevant standards set by the City in any bylaws of the City;
 - (iv) the Affordable Housing Unit remains vacant for three consecutive months or longer, notwithstanding the timely payment of rent; and/or
 - (v) the Tenant subleases the Affordable Housing 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 to forthwith provide to the Tenant a notice of termination. Except for section 3.6(g)(ii) of this

{00498523; 6 }

*Housing Agreement (Section 483 Local Government Act)
6560, 6600, 6640 and 6700 No. 3 Road
Application No. RZ 15-694855 Bylaw 9855
Rezoning Consideration No. 7*

Agreement [Termination of Tenancy Agreement if Annual Income of Tenant rises above amount prescribed in section 1.1(o) of this Agreement], the notice of termination shall provide that the termination of the tenancy shall be effective 30 days following the date of the notice of termination. In respect to section 3.6(g)(ii) of this Agreement, termination shall be effective on the day that is six (6) months following the date that the Owner provided the notice of termination to the Tenant;

- (h) the Tenancy Agreement will identify all occupants of the Affordable Housing Unit and will stipulate that anyone not identified in the Tenancy Agreement will be prohibited from residing at the Affordable Housing Unit for more than 30 consecutive days or more than 45 days total in any calendar year; and
 - (i) the Owner will forthwith deliver a certified true copy of the Tenancy Agreement to the City upon demand.
- 3.7 If the Owner has terminated the Tenancy Agreement, then the Owner shall use best efforts to cause the Tenant and all other persons that may be in occupation of the Affordable Housing Unit to vacate the Affordable Housing Unit on or before the effective date of termination.
- 3.8 The Owner shall not impose any age-based restrictions on Tenants of Affordable Housing Units, unless expressly permitted by the City in writing in advance.

ARTICLE 4 DEMOLITION OF AFFORDABLE HOUSING UNIT

- 4.1 The Owner will not demolish an Affordable Housing Unit unless:
- (a) the Owner has obtained the written opinion of a professional engineer or architect who is at arm's length to the Owner that it is no longer reasonable or practical to repair or replace any structural component of the Affordable Housing Unit, and the Owner has delivered to the City a copy of the engineer's or architect's report; or
 - (b) the Affordable Housing Unit is damaged or destroyed, to the extent of 40% or more of its value above its foundations, as determined by the City in its sole discretion,

and, in each case, a demolition permit for the Affordable Housing Unit has been issued by the City and the Affordable Housing Unit has been demolished under that permit.

Following demolition, the Owner will use and occupy any replacement Dwelling Unit in compliance with this Agreement and the Housing Covenant both of which will apply to any replacement Dwelling Unit to the same extent and in the same manner as those agreements apply to the original Dwelling Unit, and the Dwelling Unit must be approved by the City as an Affordable Housing Unit in accordance with this Agreement.

**ARTICLE 5
STRATA CORPORATION BYLAWS**

- 5.1 This Agreement will be binding upon all strata corporations created upon the strata title Subdivision of the Lands or any Subdivided parcel of the Lands.
- 5.2 Any strata corporation bylaw which prevents, restricts or abridges the right to use the Affordable Housing Units as rental accommodation, or imposes age-based restrictions on Tenants of Affordable Housing Units, will have no force and effect, unless expressly permitted by the City in writing in advance.
- 5.3 No strata corporation shall pass any bylaws preventing, restricting or abridging the use of the Affordable Housing Units as rental accommodation.
- 5.4 No strata corporation shall pass any bylaw or approve any levies which would result in only the Owner or the Tenant or any other permitted occupant of an Affordable Housing Unit (and not include all the owners, tenants, or any other permitted occupants of all the strata lots in the applicable strata plan which are not Affordable Housing Units) paying any extra charges or fees for the use of any Common Amenities, common property, limited common property or other common areas, facilities, or indoor or outdoor amenities of the strata corporation contrary to section 3.6(d).
- 5.5 No strata corporation shall pass any bylaws or approve any levies, charges or fees which would result in the Owner or the Tenant or any other permitted occupant of an Affordable Housing Unit paying for the use of parking, bicycle storage, electric vehicle charging stations or related facilities contrary to section 3.6(d). Notwithstanding the foregoing, the strata corporation may levy parking, bicycle storage, electric vehicle charging stations or other related facilities charges or fees on all the other owners, tenants, any other permitted occupants or visitors of all the strata lots in the applicable strata plan which are not Affordable Housing Units;
- 5.6 The strata corporation shall not pass any bylaw or make any rule which would restrict the Owner or the Tenant or any other permitted occupant of an Affordable Housing Unit from using and enjoying any Common Amenities, common property, limited common property or other common areas, facilities or amenities of the strata corporation, except on the same basis that governs the use and enjoyment of these facilities by all the owners, tenants, or any other permitted occupants of all the strata lots in the applicable strata plan.

**ARTICLE 6
DEFAULT AND REMEDIES**

- 6.1 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) an Affordable Housing Unit is used or occupied in breach of this Agreement;
 - (b) an Affordable Housing Unit is rented at a rate in excess of the Permitted Rent;

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- (c) an Affordable Housing Unit is operated and maintained by an entity that is not a non-profit organization acceptable to the City (as contemplated in Section 3.4); or
- (d) the Owner is otherwise in breach of any of its obligations under this Agreement or the Housing Covenant,

then the Owner will pay the Daily Amount to the City for every day that the breach continues after ten 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 business days following receipt by the Owner of an invoice from the City for the same.

- 6.2 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 shall also constitute a default under this Agreement.

ARTICLE 7 MISCELLANEOUS

7.1 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) where an Affordable Housing Unit is a separate legal parcel the City may file notice of this Agreement in the LTO against the title to the Affordable Housing Unit and, in the case of a strata corporation, may note this Agreement on the common property sheet; and
- (c) where the Lands have not yet been Subdivided to create the separate parcels to be charged by this Agreement, the City may file a notice of this Agreement in the LTO against the title to the Lands. If this Agreement is filed in the LTO as a notice under section 483 of the *Local Government Act* prior to the Lands having been Subdivided, and it is the intention that this Agreement is, once separate legal parcels are created and/or the Lands are subdivided, to charge and secure only the legal parcels or Subdivided Lands which contain the Affordable Housing Units, then the City Solicitor shall be entitled, without further City Council approval, authorization or bylaw, to partially discharge this Agreement accordingly. The Owner acknowledges and agrees that notwithstanding a partial discharge of this Agreement, this Agreement shall be and remain in full force and effect and, but for the partial discharge, otherwise un-amended. Further, the Owner acknowledges and agrees that in the event that the Affordable Housing Unit is in a strata corporation, this Agreement shall remain noted on the strata corporation's common property sheet.

7.2 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.

7.3 Modification

Subject to section 7.1 of this Agreement, 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.

7.4 Management

The Owner covenants and agrees that it will furnish good and efficient management of the Affordable Housing Units in accordance with this Agreement and will permit representatives of the City to inspect the Affordable Housing Units at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Affordable Housing Units in a good state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands. Notwithstanding the foregoing, and without limiting anything in this Agreement, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Affordable Housing Units.

7.5 Indemnity

The Owner will indemnify and save harmless the City and each of its elected officials, officers, directors, and agents, and their heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, actions, loss, damage, costs 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, agents, contractors or other persons for whom at law the Owner is responsible relating to this Agreement;
- (b) the City refusing to issue a development permit, building permit or refusing to permit occupancy of any Building, or any portion thereof, constructed on the Lands;
- (c) the construction, maintenance, repair, ownership, lease, license, operation, management or financing of the Lands or any Affordable Housing Unit or the enforcement of any Tenancy Agreement; and/or

- (d) without limitation, any legal or equitable wrong on the part of the Owner or any breach of this Agreement by the Owner.

7.6 Release

The Owner hereby releases and forever discharges the City and each of its elected officials, officers, directors, and agents, and its and their heirs, executors, administrators, personal representatives, successors and assigns, 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 the:

- (a) construction, maintenance, repair, ownership, lease, license, operation or management of the Lands or any Affordable Housing Unit under this Agreement;
- (b) the City refusing to issue a development permit, building permit or refusing to permit occupancy of any Building, or any portion thereof, constructed on the Lands; and/or
- (c) the exercise by the City of any of its rights under this Agreement or an enactment.

7.7 Survival

The obligations of the Owner set out in this Agreement will survive termination or discharge of this Agreement.

7.8 Priority

The Owner will do everything necessary, at the Owner's expense, to ensure that this Agreement, if required by the City Solicitor, will be noted against title to the Lands in priority to all financial charges and encumbrances which may have been registered or are pending registration against title to the Lands save and except those specifically approved in advance in writing by the City Solicitor or in favour of the City, and that a notice under section 483(5) of the *Local Government Act* will be filed on the title to the Lands.

7.9 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.

7.10 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 Tenant, or any future owner, lessee, occupier or user of the Lands or the Building or any portion thereof, including any Affordable Housing 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.

7.11 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.

7.12 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: Clerk, City of Richmond
6911 No. 3 Road
Richmond, BC V6Y 2C1

And to: City Solicitor
City of Richmond
6911 No. 3 Road
Richmond, BC V6Y 2C1

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.

7.13 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.

7.14 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.

7.15 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 in the City exercising any or all remedies will not prevent the later exercise of any remedy for the same breach or any similar or different breach.

7.16 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 Affordable Housing 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 shall, to the extent necessary to resolve such conflict, prevail.

7.17 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.

7.18 Covenant Runs with the Lands

This Agreement burdens and runs with the Lands and every parcel into which it is Subdivided in perpetuity. All of the covenants and agreements contained in this Agreement are made by the Owner for itself, its personal administrators, successors and assigns, and all persons who after the date of this Agreement, acquire an interest in the Lands.

7.19 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

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

7.20 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.

7.21 Applicable Law

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.

7.22 Deed and Contract

By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.

7.23 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 shall be joint and several.

7.23 Limitation on Owner's Obligations

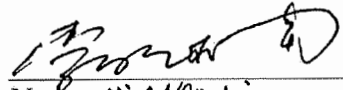
The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands provided however that notwithstanding that the Owner is no longer the registered owner of the Lands, the Owner will remain liable for breaches of this Agreement that occurred while the Owner was the registered owner of the Lands.

[Execution blocks follow]

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

BENE (RICHMOND) DEVELOPMENT LTD.

by its authorized signatory(ies):

Per: 
Name: Ming Nan Li

Per: _____
Name: _____

CITY OF RICHMOND

by its authorized signatory(ies):

Per: _____
Malcolm D. Brodie, Mayor

Per: _____
David Weber, Corporate Officer

| |
|--|
| CITY OF RICHMOND |
| APPROVED for content by originating dept. |
| APPROVED for legality by Solicitor |
| DATE OF COUNCIL APPROVAL |

Appendix A to Housing Agreement

**STATUTORY DECLARATION
(Affordable Housing Units)**

| | | |
|---------------------|---|--|
| |) | IN THE MATTER OF Unit Nos. _____ - _____ |
| |) | (collectively, the "Affordable Housing Units") located |
| CANADA |) | at |
| |) | _____ |
| PROVINCE OF BRITISH |) | (street address), British Columbia, and Housing |
| COLUMBIA |) | Agreement dated _____, 20____ (the |
| TO WIT: |) | "Housing Agreement") between |
| |) | _____ and |
| |) | the City of Richmond (the "City") |

I, _____ (full name),
of _____ (address) in the Province
of British Columbia, DO SOLEMNLY DECLARE that:

1. I am the registered owner (the "Owner") of the Affordable Housing Units;
or,
 I am a director, officer, or an authorized signatory of the Owner and I have personal knowledge of the matters set out herein;
2. This declaration is made pursuant to the terms of the Housing Agreement in respect of the Affordable Housing Units for each of the 12 months for the period from January 1, 20____ to December 31, 20____ (the "Period");
3. Continuously throughout the Period:
 - a) the Affordable Housing Units, if occupied, were occupied only by Eligible Tenants (as defined in the Housing Agreement); and
 - b) the Owner of the Affordable Housing Units complied with the Owner's obligations under the Housing Agreement and any housing covenant(s) registered against title to the Affordable Housing Units;

4. The information set out in the table attached as Appendix A hereto (the "**Information Table**") in respect of each of the Affordable Housing Units is current and accurate as of the date of this declaration; and

5. I obtained the prior written consent from each of the occupants of the Affordable Housing Units named in the Information Table to: (i) collect the information set out in the Information Table, as such information relates to the Affordable Housing Unit occupied by such occupant/resident; and (ii) disclose such information to the City, for purposes of complying with the terms of the Housing Agreement.

And 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 by virtue of the *Canada Evidence Act*.

DECLARED BEFORE ME at _____)
 _____ in the)
 Province of British Columbia, Canada, this)
 _____ day of _____, 20____)
 _____)
 A Notary Public and a Commissioner for)
 taking Affidavits in and for the Province of)
 British Columbia)

 Name: *(Signature of Declarant)*

Declarations should be signed, stamped, and dated and witnessed by a lawyer, notary public, or commissioner for taking affidavits.

Example

| Unit # | Unit Type | # of Occupants | Related to owner | Total under age 18 | Total over age 65 | Before-tax Employment Income (if tenant is over age 18) | Other Income (if tenant is over age 18) | Income Verification Received | Total Income of all Tenants | Eligible Tenant? (Y/N) | Monthly Rent | Planned rent for next year (20__) | Parking fee(s) | Move-In/Move-out fee(s) | Storage Fee(s) | Amenity Usage Fee(s) | | |
|--------|-----------|----------------|------------------|--------------------|-------------------|---|---|------------------------------|-----------------------------|------------------------|--------------|-----------------------------------|----------------|-------------------------|----------------|----------------------|----|--|
| 1 | 305 | 2br | 3 | N | 1 | 0 | \$25,000 | NA | Y | \$40,000 | Y | \$1,218 | \$1,248 | \$50/month | No | No | No | |
| | | | | N | | | \$15,000 | NA | Y | | | | | | | | | |
| | | | | N | | | NA | NA | NA | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | | | |
| 6 | | | | | | | | | | | | | | | | | | |

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