



City of Richmond

Report to Committee

To: Planning Committee **Date:** January 19, 2023

From: Kim Somerville
Director, Community Social Development **File:** 08-4057-05/2023-Vol 01

Re: **Housing Agreement (Affordable Housing) Bylaw No. 10437 to Secure 156 Affordable Housing Units, Housing Agreement (Market Rental Housing) Bylaw No. 10438 to Secure 120 Market Rental Housing Units, and Housing Agreement (Market Rental Housing) Bylaw No. 10439 to Secure 17 Market Rental Housing Units in Phase 1 and Phase 2 of the Proposed Development Located at 8671, 8731, 8771, 8831/8851 Cambie Road, 8791 Cambie Road/3600 Sexsmith Road, and 3480, 3500, 3520, 3540/3560 Sexsmith Road**

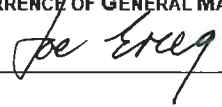

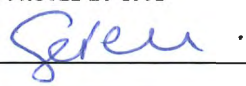
Staff Recommendations

1. That Housing Agreement Bylaw No. 10437 be introduced and given first, second and third readings to permit the City to enter into a Housing Agreement in accordance with the requirements of section 484 of the Local Government Act to secure the Affordable Housing Units required by Development Permit DP 22-015851;
2. That Housing Agreement Bylaw No. 10438 be introduced and given first, second and third readings to permit the City to enter into a Housing Agreement in accordance with the requirements of section 484 of the Local Government Act, to secure the Market Rental Housing Units required by Development Permit DP 22-015851; and
3. That Housing Agreement Bylaw No. 10439 be introduced and given first, second and third readings to permit the City to enter into a Housing Agreement in accordance with the requirements of section 484 of the Local Government Act, to secure the Market Rental Housing Units required by Development Permit DP 22-017484.



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

Att. 2

REPORT CONCURRENCE		
ROUTED TO: Law Development Applications Policy Planning	CONCURRENCE <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	CONCURRENCE OF GENERAL MANAGER 
SENIOR STAFF REPORT REVIEW	INITIALS: 	APPROVED BY CAO 

Staff Report

Origin

The purpose of this report is to recommend that City Council adopt Housing Agreement Bylaw No. 10437 to secure 156 Low-End Market Rental (LEMR) affordable housing units, Housing Agreement Bylaw No. 10438 to secure 120 market rental housing units, and Housing Agreement Bylaw No. 10439 to secure 17 market rental units in Phase 1 and Phase 2 of the proposed development located at 8671, 8731, 8771, 8831/8851 Cambie Road, 8791 Cambie Road/3600 Sexsmith Road, and 3480, 3500, 3520, 3540/3560 Sexsmith Road (Attachments 1 and 2). An additional 17 market rental units will be secured by future housing agreements in each of Phase 3 and Phase 4 of the development, once the associated Development Permit applications are brought forward, for a grand total of 156 LEMR units and 171 market rental units.

The applicant, Polygon Homes, has applied to the City for Development Permit DP 22-015851 and Development Permit DP 22-017484 for the first two phases of a four-phase development project. The Development Permit associated with the project's first phase, DP 22-015851, is to develop two six-storey mid-rise towers comprised of 100% rental housing – one stand-alone affordable housing building with 156 LEMR units and one stand-alone market rental building with 120 market rental units. The Development Permit associated with the project's second phase, DP 22-017484, is to develop a residential high-rise building including 17 market rental units. The LEMR and market rental units in each of the three buildings will be secured in perpetuity by three separate Housing Agreements.

The development's proposed affordable and market rental housing are consistent with the City's Affordable Housing Strategy 2017–2027 and Market Rental Housing Policy.

This report supports Council's Strategic Plan 2018–2022 Strategy #6 Strategic and Well-Planned Growth:

6.5 Ensure diverse housing options are available and accessible across the housing continuum.

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

Strategic Direction #1: Expand Housing Choices

This report is also consistent with the City of Richmond's Affordable Housing Strategy 2017–2027, including:

Strategic Direction #1: Use regulatory tools to encourage a diverse mix of housing types and tenures.

Housing Agreement Bylaw No. 10437, Housing Agreement Bylaw No. 10438 and Housing Agreement Bylaw No. 10439 secure the LEMR and market rental units with terms and conditions endorsed by Council through rezoning application RZ 18-836123.

It is recommended that the three proposed Housing Agreements for the subject development be introduced and given first, second and third readings. Following the adoption of the Bylaws, the City will be able to execute the Housing Agreements and arrange for notice of the Agreements to be filed on title to the development lands in the Land Title Office.

Analysis

The proposed development will be built in four phases, totalling approximately 1,341 residential units, including 156 LEMR units and 171 market rental units (Table 1). The project's first phase will consist of a six-storey 100% LEMR building with 156 units and a 100% market rental building with 120 units. The following three phases of the development each include 17 market rental units located within strata-primary buildings. This report recommends the adoption of three separate housing agreements to secure the LEMR units and market rental housing units in Phase 1 and Phase 2 of the development. The market rental units included in Phase 3 and Phase 4 of the development will be secured by future housing agreements.

Table 1: LEMR and Market Rental Unit Mix and Phases

Unit Type	LEMR Phase 1 – Lot 1	Market Rental Phase 1 – Lot 1	Market Rental Phase 2 – Lot 4	Market Rental Phase 3 – Lot 2 Future Phase	Market Rental Phase 4 – Lot 3 Future Phase
Studio	18 (12%)	6 (5%)	1 (6%)	1 (6%)	1 (6%)
One bedroom	60 (38%)	46 (38%)	6 (35%)	6 (35%)	6 (35%)
Two bedroom	45 (29%)	68 (57%)	10 (59%)	10 (59%)	10 (59%)
Three bedroom	33 (21%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Total Units	156	120	17	17	17
Total Square Feet	112,898 ft ² (10,488.5 m ²)	94,024.05 ft ² (8,735.12 m ²)	12,945 ft ² (1,202.63 m ²)	12,945 ft ² (1,202.63 m ²)	12,945 ft ² (1,202.63 m ²)

Affordable Housing

The 156 LEMR units in the first phase of the development comprise 10% of the development's total residential floor area, excluding the floor area allocated to market rental housing units. The 156 units will be managed by a qualified non-profit organization and will be located in a six-storey standalone building. The applicant has executed a preliminary memorandum of understanding with S.U.C.C.E.S.S., an experienced non-profit housing provider, which plans to acquire and operate the 156 LEMR units.

The proposed unit mix exceeds the Affordable Housing Strategy's family-friendly unit mix requirements by providing 29% of all LEMR units as two-bedroom units and 21% as three-bedroom units, as shown in Table 2. The proposed unit mix also exceeds the requirements of the Affordable Housing Strategy in proposing that 100% of the units are constructed with Basic Universal Housing (BUH) features.

Table 2: LEMR Unit Mix

Unit Type	Affordable Housing Strategy Requirement			Project Target	
	Min. Unit area	Max. Rent*	Max. Household Income*	Unit Mix	BUH Features
Studio	400 ft ² (37 m ²)	\$811/month	\$34,650 or less	12% (18 units)	100%
One bedroom	535 ft ² (50 m ²)	\$975/month	\$38,250 or less	38% (60 units)	100%
Two bedroom	741 ft ² (69 m ²)	\$1,218/month	\$46,800 or less	29% (45 units)	100%
Three bedroom	980 ft ² (91 m ²)	\$1,489/month	\$58,050 or less	21% (33 units)	100%

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

The 156 LEMR housing units will be secured in perpetuity through the registration of a Housing Agreement on title. The Housing Agreement restricts the annual household incomes and maximum rents for eligible occupants and stipulates that the units must always be made available at affordable rental housing rates in perpetuity. The Agreement includes provisions for annual adjustments of the maximum annual housing incomes and rental rates required by the City. Additionally, the Agreement prohibits the owner from imposing any age-based restrictions on the tenants of the LEMR units.

The Housing Agreement stipulates that occupants of the LEMR units shall have unrestricted access to all indoor amenities and shared facilities (such as visitor parking) within the building, and residential outdoor amenity spaces on the lot. In addition, tenants of LEMR units will not be charged any fees in addition to their rent (e.g. parking or strata fees). To ensure that the owner is managing the LEMR units in accordance with the terms outlined in the Housing Agreement, the agreement permits the City to conduct an annual statutory declaration process. If the owner decides to sell the 156 LEMR units, the Housing Agreement stipulates that all 156 units must be sold to a single owner.

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 156 LEMR units.

Market Rental Housing

The total development including all four phases proposes the construction of 171 market rental units, representing approximately 10.5% of the residential floor area proposed for the development. The subject Housing Agreements will secure 120 market rental units in Phase 1 of the development and 17 market rental units in Phase 2 of the development for a total of 137 units. An additional 17 market rental units will be secured by future Housing Agreements in each of Phase 3 and Phase 4 of the development, for an additional 34 market rental units.

Polygon Homes proposes to own and manage all of the market rental units within all four phases of the development, including the 120 market rental units in Phase 1. The 120 market rental units in Phase 1 will be located in a six-storey stand-alone 100% rental building. Phase 2, Phase 3 and Phase 4 of the development will each contain 17 market rental units within strata-primary buildings, as shown in Table 1 above. Adoption of the proposed Housing Agreements will restrict the usage of

the 120 market rental units in Phase 1 of the development and the 17 market rental units in Phase 2 of the development as rental housing units in perpetuity. The location and configuration of the 17 market rental units included in Phase 2 of the development will be confirmed during the Development Permit process.

The proposed market rental housing units in Phase 1 and Phase 2 of the project exceed the family-friendly unit size requirement of the City's Market Rental Housing Policy by providing 56% and 59% two-bedroom units, respectively, as shown in Table 3. In addition, the unit mix complies with the Market Rental Housing Policy's objective to incorporate BUH features in all market rental units.

Table 3: Market Rental Unit Mix

Unit Type	Market Rental Phase 1 – Lot 1	Market Rental Phase 2 – Lot 4	Market Rental Phase 1 and Phase 2 Total	Basic Universal Housing Features
Studio	6 (5%)	1 (6%)	7 (5%)	100%
One bedroom	46 (38%)	6 (35%)	55 (40%)	100%
Two bedroom	68 (56%)	10 (59%)	78 (57%)	100%
Three bedroom	0 (0%)	0 (0%)	0 (0%)	0%
Total Units	120	17	137	100%
Total Square Feet	94,024.05 ft ² (8,735.12 m ²)	12,945 ft ² (1,202.63 m ²)	106,969.05 ft ² (9,937.75 m ²)	

The 120 market rental housing units included in Phase 1 and the 17 market rental housing units included in Phase 2 will be secured in perpetuity by registering a Housing Agreement on title. The Housing Agreement restricts the use of the units to rental tenure only, to be rented at or below prevailing market rates in perpetuity, with no restrictions on annual household incomes of tenants or maximum rents. In addition, the Agreement stipulates that the units must be rented on a month-to-month or longer basis (i.e. no short-term rentals) and prohibits the owner from imposing any age-based restrictions on the tenants of the market rental units.

The Housing Agreement specifies that occupants of the market rental units shall have unrestricted access to indoor building amenities, all residential outdoor amenity spaces on the lot where the units are constructed and all associated shared facilities (e.g. visitor parking) in the development. Tenants of the market rental units will not be charged strata fees or additional charges or fees associated with the use of common amenities.

In order to ensure that the owner manages the market rental housing units in accordance with the terms outlined in the Housing Agreement, the Agreement allows the City to conduct a statutory declaration process, similar to the statutory declaration process for LEMR units, no more than once per year. If the owner decides to sell the market rental housing units, the Housing Agreement requires that all units on each lot must be sold to a single owner.

The applicant has agreed to the terms and conditions of the Housing Agreement and to register notices of the Housing Agreement on title to secure the 120 market rental units in Phase 1 and the 17 market rental units in Phase 2 of the development.

In summary, this report recommends the adoption of three Housing Agreements which will secure 156 LEMR units proposed in Phase 1 of the development, 120 market rental housing units proposed in Phase 1 of the development, and 17 market rental housing units proposed in Phase 2 of the development. The remaining 34 market rental units to be provided in Phase 3 and Phase 4 of the development will be the subject of a future report.

Financial Impact

None.

Conclusion

The adoption of Bylaw Numbers 10437, 10438, and 10439 is required by the Local Government Act (Section 483) to permit the City to enter into the associated Housing Agreements. The Housing Agreements, along with Housing Covenants, will secure the 156 LEMR units and 137 market rental units proposed in conjunction with Rezoning Permit Application RZ 18-836123 on title in perpetuity.



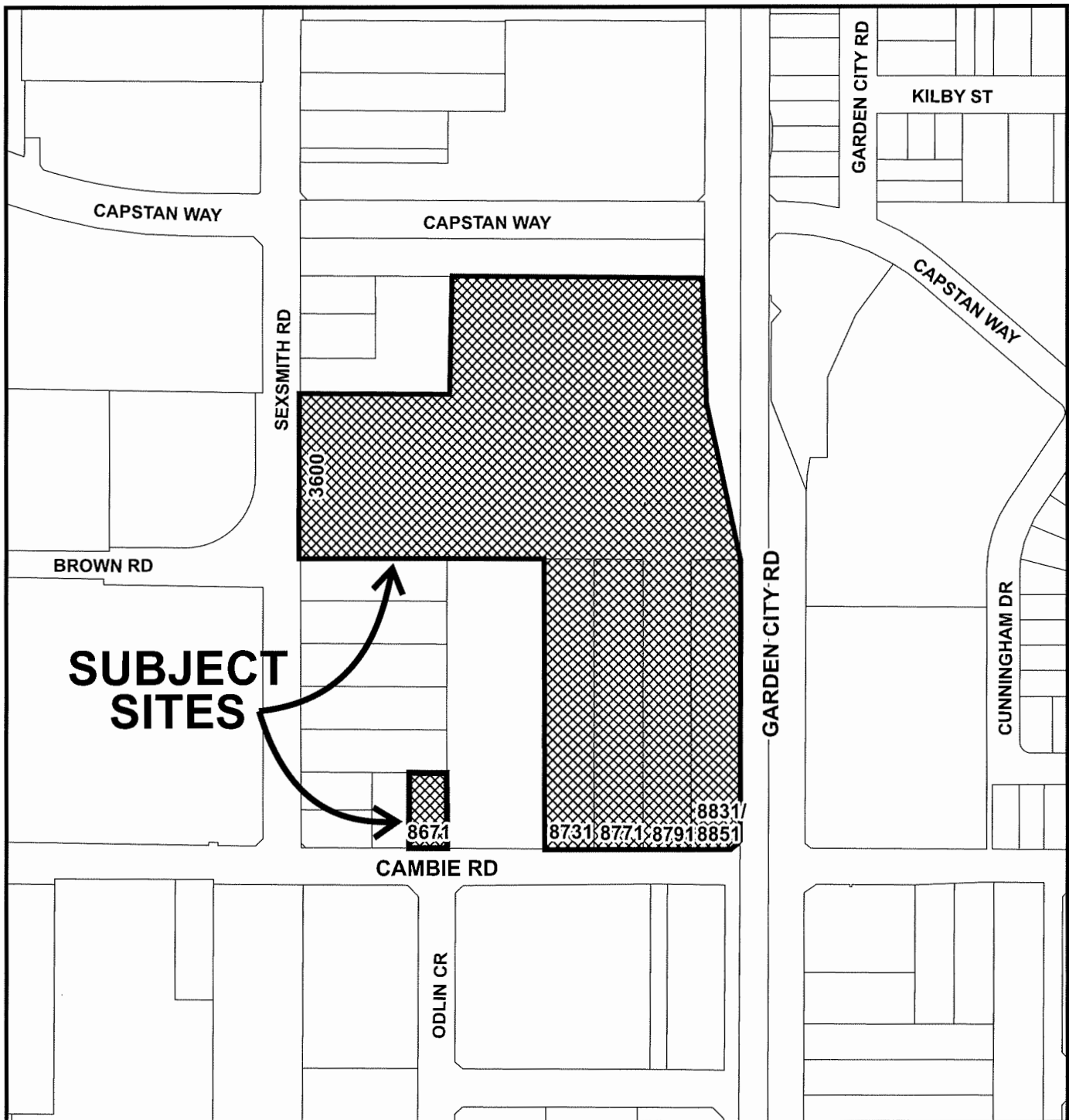
Roberto Abeabe
Manager, Affordable Housing
(604-247-4916)

Att. 1: Map of 8671, 8731, 8771, 8831, 8851, 8791 Cambie Road and 3600 Sexsmith Road

Att. 2: Map of 8791 Cambie Road and 3600 Sexsmith Road



City of
Richmond



8671, 8731, 8771, 8831,
8851, 8791 Cambie Road and
3600 Sexsmith Road

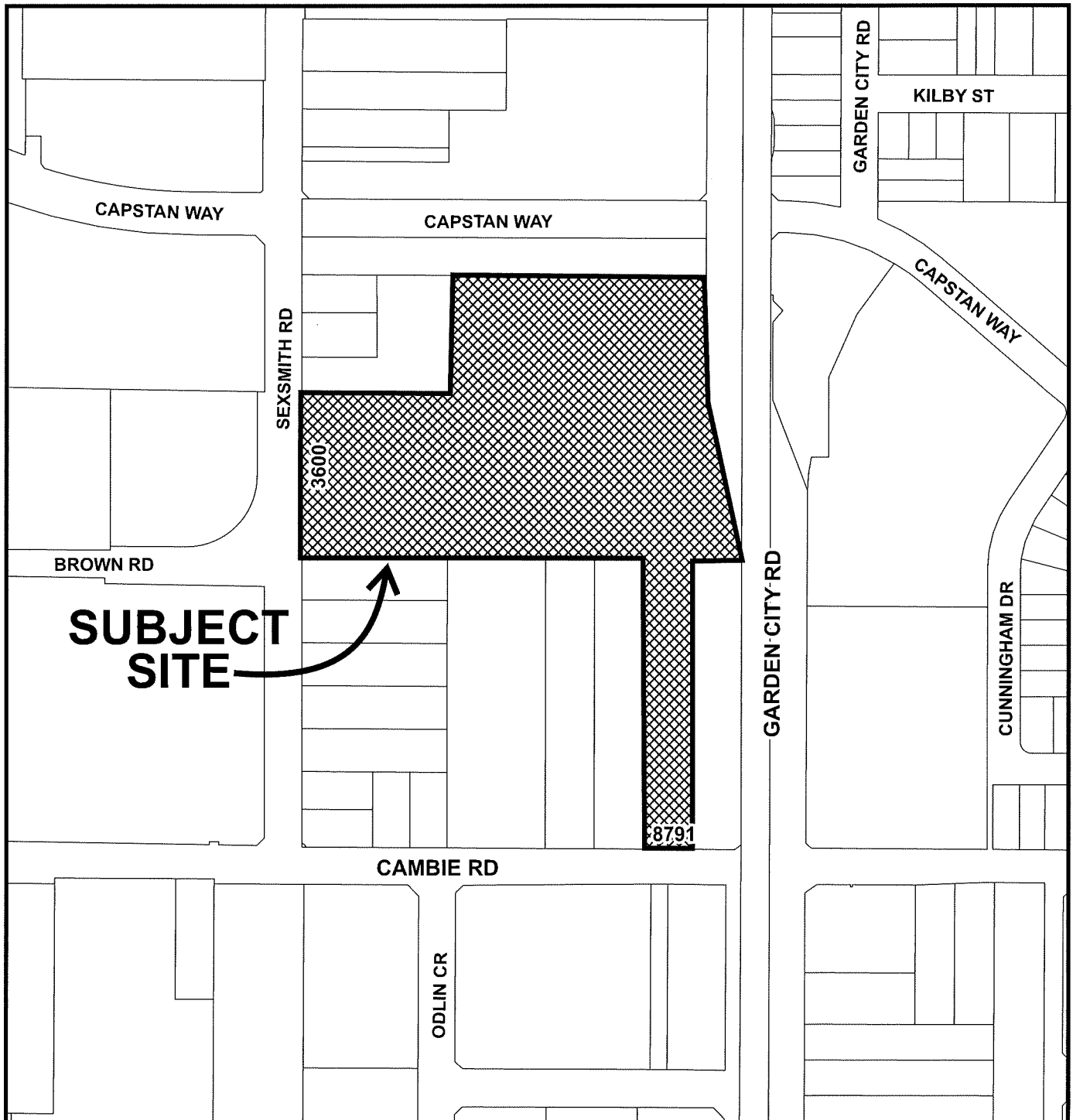
Original Date: 01/09/23

Revision Date: 01/11/23

Note: Dimensions are in METRES



City of Richmond



8791 Cambie Road and
3600 Sexsmith Road

PLN - 31

Original Date: 01/09/23

Revision Date: 01/11/23

Note: Dimensions are in METRES



Housing Agreement (Affordable Housing) (8671, 8731, 8771, 8831/8851 Cambie Road, 8791 Cambie Road and 3600 Sexsmith Road) Bylaw No. 10437

The Council of the City of Richmond enacts as follows:

1. 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: 001-943-090, Lot 48 Section 28 Block 5 North Range 6 West New Westminster District Plan 30573

PID: 003-576-485, East Half Lot 5 Except: Part on Bylaw Plan 57403, Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 4037;

PID: 003-923-088, West Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037

PID: 004-174-135, East Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037 ("East Half Lot 4")

PID: 004-197-666, Lot 3 Except: Firstly: Parcel "A" (Reference Plan 29821) Secondly: Part Subdivided by Plan 30573 and Thirdly: Part Subdivided by Plan 47080, Section 28 Block 5 North Range 6 West New Westminster District Plan 15930

PID: 004-272-200, Lot 2 Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 15930

PID: 004-504-909, Lot 9 Section 28 Block 5 North Range 6 West New Westminster District Plan 7795

PID: 006-111-998, Lot 67 Section 28 Block 5 North Range 6 West New Westminster District Plan 46711

PID: 006-162-843, Lot 69 Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 47080



2. This Bylaw is cited as **"Housing Agreement (Affordable Housing) (8671, 8731, 8771, 8831/8851 Cambie Road, 8791 Cambie Road and 3600 Sexsmith Road) Bylaw No. 10437"**.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED for content by originating dept. 
APPROVED for legality by Solicitor 

MAYOR

CORPORATE OFFICER

Schedule A

**Housing Agreement (Affordable Housing) (8671, 8731, 8771, 8831/8851 Cambie Road, 8791
Cambie Road and
3600 Sexsmith Road) Bylaw No. 10437**

HOUSING AGREEMENT BETWEEN POLYGON TALISMAN PARK LTD. AND
CITY OF RICHMOND

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

THIS AGREEMENT is dated for reference ____ day of _____, 20__.

BETWEEN:

POLYGON TALISMAN PARK LTD. (Inc. No. BC1167752), a corporation pursuant to the *Business Corporations Act* and having an address at 900 - 1333 West Broadway, Vancouver, British Columbia, V6H 4C2

(the “**Owner**”)

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**”)

WHEREAS:

- A. Capitalized terms used in these Recitals and in this Agreement shall have the meanings ascribed in Section 1.1;
- B. 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;
- C. The Owner is the owner of the Lands; and
- D. The Owner and the City wish to enter into this Agreement to provide for affordable housing on the terms and conditions set out in this Agreement,

NOW THEREFORE 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 Unit”** means a Dwelling Unit or Dwelling Units located or to be located on Lot 1 and 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, or a Lot or portion thereof, and includes, without limiting the generality of the foregoing, the Dwelling Units located or to be located on Lot 1 charged by this Agreement;
- (b) **“Agreement”** means this agreement together with all schedules, attachments and priority agreements attached hereto;
- (c) **“Building”** means any building constructed, or to be constructed, on the Lands or any Lot, or a portion thereof, including each air space parcel into which the Lands or any Lot or any part thereof may be Subdivided from time to time. For greater certainty, each air space parcel and the remainder parcel will be a Building for the purpose of this Agreement;
- (d) **“Building Permit”** means a building permit authorizing construction on the Lands or any Lot or any portion(s) thereof;
- (e) **“CCAP”** means the City of Richmond City Centre Area Plan, as may be amended or replaced from time to time;
- (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 provided for residents of the Building in which the Affordable Housing Units are located, as required by the OCP, CCAP, Rezoning and any applicable Development Permit, and as determined and designated pursuant to the Rezoning and any applicable Development Permit processes, including without limitation visitor parking, the required affordable housing parking, loading bays, and electric vehicle and bicycle charging stations, bicycle storage, 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, 2009 adjusted annually thereafter by adding thereto an amount calculated by multiplying \$100.00 by the percentage change in the CPI since January 1, 2009, 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, mid-rise and high-rise development to be constructed on the Lands;
- (l) **“Development Permit”** means a development permit authorizing development on the Lands or any Lot, or any portion(s) thereof;
- (m) **“Director, Community Social Development”** means the individual appointed to be the Director, Community Social Development from time to time of the Community Services Department 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 or a Lot or parts thereof from time to time, in respect to the use and transfer of the Affordable Housing Units located or to be located on Lot 1 or parts thereof;
- (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, collectively, the lands and premises legally described as:
 - (i) PID: 001-943-090, Lot 48 Section 28 Block 5 North Range 6 West New Westminster District Plan 30573;
 - (ii) PID: 003-576-485, East Half Lot 5 Except: Part on Bylaw Plan 57403, Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 4037;
 - (iii) PID: 003-923-088, West Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037;
 - (iv) PID: 004-174-135, East Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037 (“**East Half Lot 4**”);
 - (v) PID: 004-197-666, Lot 3 Except: Firstly: Parcel “A” (Reference Plan 29821) Secondly: Part Subdivided by Plan 30573 and Thirdly: Part Subdivided by Plan 47080, Section 28 Block 5 North Range 6 West New Westminster District Plan 15930;
 - (vi) PID: 004-272-200, Lot 2 Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 15930;
 - (vii) PID: 004-504-909, Lot 9 Section 28 Block 5 North Range 6 West New Westminster District Plan 7795;
 - (viii) PID: 006-111-998, Lot 67 Section 28 Block 5 North Range 6 West New Westminster District Plan 46711; and

- (ix) PID: 006-162-843, Lot 69 Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 47080;
- (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) “**Lot 1**” means those lands and premises intended to be Subdivided from the Lands, and which are anticipated to be legally described as Lot 1 Section 27 and 28 Block 5 North Range 6 West New Westminster District Plan EPP120534, and which are generally referred to in connection with the Rezoning as the “South Lot”, as may be further Subdivided from time to time, and including a Building or a portion of a Building;
- (x) “**Lot 2**” means those lands and premises intended to be Subdivided from the Lands, and which are anticipated to be legally described Lot 2 Section 27 and 28 Block 5 North Range 6 West New Westminster District Plan EPP120534, and which are generally referred to in connection with the Rezoning as the “East Lot”, as may be further Subdivided from time to time, and including a Building or a portion of a Building;
- (y) “**Lot 3**” means those lands and premises intended to be Subdivided from the Lands, and which are anticipated to be legally described as Lot 3 Section 28 Block 5 North Range 6 West New Westminster District Plan EPP120534, and which are generally referred to in connection with the Rezoning as the “West Lot”, as may be further Subdivided from time to time, and including a Building or a portion of a Building;
- (z) “**Lot 4**” means those lands and premises intended to be Subdivided from the Lands, and which are anticipated to be legally described as Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan EPP120534, and which are generally referred to in connection with the Rezoning as the “Central Lot”, as may be further Subdivided from time to time, and including a Building or a portion of a Building;
- (aa) “**Lots**” means, collectively, Lot 1, Lot 2, Lot 3 or Lot 4 and “**Lot**” means any one of them;
- (bb) “**LTO**” means the New Westminster Land Title Office or its successor;
- (cc) “**OCP**” means the City of Richmond Official Community Plan Bylaw No. 7100, as may be amended or replaced from time to time;
- (dd) “**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;

(ee) **“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;

- (ff) **“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;
- (gg) **“Residential Tenancy Act”** means the *Residential Tenancy Act*, S.B.C. 2002, Chapter 78, together with all amendments thereto and replacements thereof;
- (hh) **“Residential Tenancy Regulation”** means the Residential Tenancy Regulation, B.C. Reg. 477/2003, together with all amendments thereto and replacements thereof;
- (ii) **“Rezoning”** means the rezoning of the Lands pursuant to the rezoning application made by the Owner under number RZ 18-836123;
- (jj) **“Strata Property Act”** means the *Strata Property Act* S.B.C. 1998, Chapter 43, together with all amendments thereto and replacements thereof;
- (kk) **“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*;

- (ll) “**Tenancy Agreement**” means a tenancy agreement, lease, license or other agreement granting rights to occupy an Affordable Housing Unit; and
- (mm) “**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 at Permitted Rent. 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 will, 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 Schedule 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 any Development Permit unless the first Development Permit for the Development includes the Affordable Housing Units;
 - (b) be issued with any Building Permit unless the first Building Permit (excluding for excavation) includes the Affordable Housing Units;
 - (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 final or provisional 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 in accordance with this Agreement, the Housing Covenant, a Development Permit, a Building Permit, and all applicable City bylaws, rules or policies, to the satisfaction of the City;

- (ii) the Affordable Housing Units have received final building permit inspection granting provisional or final occupancy of the Affordable Housing Units; 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 Affordable Housing Units, any facilities for the use of the Affordable Housing Units, including Common Amenities; and
 - (d) Subdivide the Lands or the portion of the Lands to comprise Lot 1 or any part thereof unless all easements, covenants, rights of way and other agreements, to the satisfaction of the Director, Community Social Development and the City Solicitor, are in place to secure use of all Common Amenities by the Tenants and any permitted occupants and visitors to the Affordable Housing Units.
- 2.5 Notwithstanding anything to the contrary contained in the *Residential Tenancy Act* or the *Residential Tenancy Regulation*, the Owner will, for so long as the Affordable Housing Units remain located on the Lands, comply with sections 41 [Rent increases], 42 [Timing and notice of rent increases] and 43 [Amount of rent increase] of the *Residential Tenancy Act*, as such sections may be amended or replaced from time to time, with respect to rent increases for Tenants.

ARTICLE 3

DISPOSITION AND ACQUISITION OF AFFORDABLE HOUSING UNITS

- 3.1 The Owner will not permit an Affordable Housing Unit or any Common Amenity assigned for the exclusive use of an Affordable Housing Unit to be subleased, or a Tenancy Agreement to be assigned, except as required under the *Residential Tenancy Act* and provided that for the avoidance of doubt, the Owner shall not exercise any discretion afforded to it under the *Residential Tenancy Act* to consent to any sublease or assignment which would result in the occupation or use of an Affordable Housing Unit or Common Amenity assigned for the exclusive use of an Affordable Housing Unit which is prohibited by or inconsistent with the terms and conditions of this Agreement or which would preclude the Owner from otherwise being able to comply with the terms and conditions of this Agreement.
- 3.2 The Owner will not permit an Affordable Housing Unit to be used for short term rental purposes (being rentals for periods shorter than 30 days), or any other purposes that do not constitute a “permanent residence” of a Tenant or an Eligible Tenant.
- 3.3 If this Agreement encumbers more than one Affordable Housing Unit, the following will apply:
 - (a) the Owner will not, without the prior written consent of the City, sell or transfer less than all of the Affordable Housing Units located in one Building 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 of the Affordable Housing Units in the Building;

- (b) the Owner will not Subdivide that portion of the Lands which is to comprise Lot 1 in any manner which would result in the Affordable Housing Units being contained within individual strata lots, the Owner acknowledging and agreeing that if that portion of the Lands containing the Affordable Housing Units is subject to Subdivision by a Strata Plan, that the Affordable Housing Units will together form no more than one (1) strata lot;
- (c) if the Development contains one or more air space parcels, each air space parcel and the remainder within each air space plan will be a “Building” for the purpose of this section 3.3; and
- (d) that portion of the Lands which is to comprise Lot 1 will not be Subdivided such that one or more Affordable Housing Units form their own air space parcel, separate from other Dwelling Units located or to be located on Lot 1, without the prior written consent of the City.

3.4 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 of Richmond (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 total, gross annual income once per calendar year from all sources (including employment, disability, retirement, investment, and other) of all members of the Tenant’s household who are 18 years of age and over and who reside in the Affordable Housing Unit;
- (ii) number of occupants of the Affordable Housing Unit;
- (iii) number of occupants of the Affordable Housing Unit 18 years of age and under;
- (iv) number of occupants of the Affordable Housing Unit 55 years of age and over.”;

- (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.

3.5 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 owned by the Owner must be managed and operated by one non-profit organization.

Without limiting the foregoing, the non-profit organization retained pursuant to this Section 3.5 must have as one of its prime objectives the operation of affordable housing. 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 3.5.

3.6 If the Owner sells or transfers any Affordable Housing Units, the Owner will notify the City Solicitor of the sale or transfer within three (3) days of the effective date of sale or transfer.

3.7 The Owner will 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;
- (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 amenities, including without limitation parking, bicycle storage, electric vehicle and bicycle charging stations or related facilities;

- (v) extra charges for the use of sanitary sewer, storm sewer, or 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, an 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 and bicycle 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;

3.8 The Owner will attach a copy of this Agreement to every Tenancy Agreement.

3.9 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; for clarity, the aforesaid will not lessen the Owner's obligations under this Agreement or be deemed a delegation of the Owner's obligations under this Agreement.

3.10 The Owner will include in the Tenancy Agreement a clause entitling the Owner to terminate the Tenancy Agreement if:

- (a) an Affordable Housing Unit is occupied by a person or persons other than an Eligible Tenant;
- (b) the annual income of an Eligible Tenant rises above the applicable maximum amount specified in section 1.1(o) of this Agreement;
- (c) the Affordable Housing Unit is occupied by more than the number of people the City 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;
- (d) the Affordable Housing Unit remains vacant for three (3) consecutive months or longer, notwithstanding the timely payment of rent; and/or
- (e) the Tenant subleases the Affordable Housing Unit or assigns the Tenancy Agreement in whole or in part without consent of the Owner given in accordance with this Agreement,

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 3.10(b) of this 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 on the date that is the greater of 30 days following the date of the notice of termination and the minimum amount of notice required by the *Residential Tenancy Act*. In respect to section 3.10(b) 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.

- 3.11 The Owner will ensure that each Tenancy Agreement identifies all occupants of the applicable Affordable Housing Unit and will include a clause in the Tenancy Agreement stipulating 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.
- 3.12 The Owner will forthwith deliver a certified true copy of any Tenancy Agreement to the City upon demand.
- 3.13 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.
- 3.14 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 the Affordable Housing Unit 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 or applicable Lot or part thereof which contain the Affordable Housing Units.
- 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, or is otherwise inconsistent with this Agreement, will have no force and effect, unless expressly approved 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.
- 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 and bicycle charging stations or related facilities contrary to section 3.7(d). Notwithstanding the foregoing, the strata corporation may levy such parking, bicycle storage, electric vehicle and bicycle 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; provided, however, that the electricity fees, charges or rates for use of electric vehicle and bicycle charging stations are excluded from this provision.
- 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 which are not Affordable Housing Units.

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;
- (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 3.5); 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 (10) 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.

- 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, then after the Lands are Subdivided and after partial or final occupancy has been granted for all Affordable Housing Units, this Agreement will secure only the legal parcels which contain the Affordable Housing Units.

The City will partially discharge this Agreement accordingly, provided however that:

- (i) the City has no obligation to execute such discharge until a written request therefor from the Owners is received by the City, which request includes the registrable form of discharge;
- (ii) the cost of the preparation of the aforesaid discharge, and the cost of registration of the same in the LTO is paid by the Owners;
- (iii) the City has a reasonable time within which to execute the discharge and return the same to the Owners for registration; and
- (iv) the Owners acknowledge that such discharge is without prejudice to the indemnity and release set forth in sections 7.5 and 7.6.

The Owner acknowledges and agrees that notwithstanding a partial discharge of this Agreement, this Agreement will be and remain in full force and effect and, but for the partial discharge, otherwise unamended.

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 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, at no cost or charge to the Tenant.

The Owner further covenants and agrees that it will vote:

- (a) as owner of the Affordable Housing Units, in any applicable annual general meetings or special general meetings of a strata corporation; and

- (b) as owner of any air space parcel containing the Affordable Housing Units at any applicable meetings of the owners of other Subdivided parcels of that portion of the Lands to comprise Lot 1 or part thereof,

to ensure that the Common Amenities are maintained in a good state of repair by the strata corporation which includes the Affordable Housing Units and any of the Common Amenities, and the owner of the applicable air space parcel or remainder parcel which includes any of the Common Amenities, as applicable.

Notwithstanding the foregoing, 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, arising out of or in connection, directly or indirectly, or that would not or could not have occurred "but for" this Agreement;
- (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 arising out of or in connection, directly or indirectly, or that would not or could not have occurred “but for” this Agreement; 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, including but not limited to sections 7.5 and 7.6 above, 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 a 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

Copy to: City Solicitor, and the Director, Community Social 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.

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 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.


7.24 Limitation on Owner's Obligations

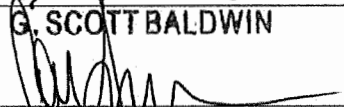
The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands, or parts thereof, provided however that notwithstanding that the Owner is no longer the registered owner of the Lands, or parts thereof, the Owner will remain liable for breaches of this Agreement that occurred while the Owner was the registered owner of the Lands, or parts thereof. For the avoidance of doubt, the Owner shall only be liable for breaches of this Agreement as registered owner of those portions of the Lands from which this Agreement has not been discharged in accordance with and subject to section 7.1(c).

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

POLYGON TALISMAN PARK LTD. (Inc. No. BC1167752)

by its authorized signatory(ies):

Per: 
Name: G. SCOTT BALDWIN

Per: 
Name: ROBERT BRUNO

CITY OF RICHMOND

by its authorized signatory(ies):

Per: _____
Malcolm D. Brodie, Mayor

Per: _____
Claudia Jesson, Corporate Officer

CITY OF RICHMOND
APPROVED for content by originating dept
Legal Advice
DATE OF COUNCIL APPROVAL (if applicable)

Schedule A to Affordable Housing Agreement

STATUTORY DECLARATION
(Affordable Housing Units)

	)	IN THE MATTER OF Unit Nos. _____ - _____
CANADA	)	(collectively, the " Affordable Housing Units ") located
	)	at
PROVINCE)	_____
OF	)	(<i>street address</i>), British Columbia, and Housing
BRITISH	)	Agreement dated _____, 20____ (the
COLUMBIA	)	"Housing Agreement ") between
TO WIT:	)	_____ 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. To the best of my knowledge, 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. To the best of my knowledge, 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. Each of the tenancy agreements entered into between the Owner and the respective occupants of the Affordable Housing Units contains 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

(Signature of Declarant)
Name:

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

APPENDIX A

Building Name:		Building Address:		Property Manager Name:		Property Manager Phone Number:										
Property Management Company:		Property Manager Email:		Fees Collected (For any fees charged, provide details and explanation regarding the fees to the City together with the Statutory Declaration.)												
Unit and Household Information				Income and Rent				Fees Collected								
Row #	Unit #	Unit Type (Studio, 1 Bed, 2 Bed, 3 Bed)	Number of Occupants (#)	Related to Owner (Yes/No) (Provide one response per occupant)	Total Number of Occupants 18 years and Under (#)	Total Number of Occupants 19 years and Over (#)	Starting Year of Tenancy	Before-Tax Total Income(s) (If Occupant is 18+ Years) (Provide one response per occupant)	Income Verification Received (Yes/No) (Provide one response per occupant)	Before-Tax Total Income of All Occupants 18+	Rent (\$/Month)	Parking Fees	Move-In/Move-Out Fees	Storage Fees	Annually Usage Fees	Different Tenant Fees
0	EXAMPLE ONLY - 101	3 BR	4	No Yes No No	1	1	2022	\$51,049 \$21,764 \$0 \$7,825	Yes Yes Yes Yes	\$61,638	\$1,611.19	\$	\$	\$	\$	\$
1																
2																
3																
4																
5																
6																

PRIORITY AGREEMENT

HSBC BANK CANADA (the “**Chargeholder**”) is the holder of Mortgages and Assignments of Rents (and any related extensions thereof):

- (i) Mortgage CA6831107,
- (ii) Assignment of Rents CA6831108,
- (iii) Mortgage CA6877435, and
- (iv) Assignment of Rents CA6877436,

registered in the LTO (collectively, the “**Bank Charges**”) against title to, in respect of Mortgage CA6831107 and Assignment of Rents CA6831108, the Lands other than East Half Lot 4, and in respect of Mortgage CA6877435 and Assignment of Rents CA6877436, East Half Lot 4. Words capitalized in this priority agreement, not otherwise defined herein, have the meaning ascribed to them in the agreement to which this priority agreement is attached (the “**Housing Agreement**”).

The Chargeholder, being the holder of the Bank Charges, by signing below, in consideration of the payment of Ten Dollars (\$10.00) and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the Chargeholder), hereby consents to the granting of the covenants in the Housing Agreement by the Owner and hereby covenants that the Housing Agreement shall rank in priority upon the Lands over the Bank Charges as if the Housing Agreement had been signed, sealed and delivered and noted on title to the Lands prior to the Bank Charges and prior to the advance of any monies pursuant to the Bank Charges. The grant of priority is irrevocable, unqualified and without reservation or limitation.

HSBC BANK CANADA

by its authorized signatory(ies):

Per: 
 Name: **GARY KATAYAMA**
 Assistant Vice President
 Commercial Real Estate

Per: 
 Name: **Jessica Brummell**
 Vice President
 Commercial Real Estate



**Housing Agreement (Market Rental) (8671, 8731, 8771, 8831/8851
Cambie Road, 8791 Cambie Road and 3600 Sexsmith Road) Bylaw No.
10438**

The Council of the City of Richmond enacts as follows:

1. 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: 001-943-090, Lot 48 Section 28 Block 5 North Range 6 West New Westminster District Plan 30573

PID: 003-576-485, East Half Lot 5 Except: Part on Bylaw Plan 57403, Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 4037;

PID: 003-923-088, West Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037

PID: 004-174-135, East Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037 ("East Half Lot 4")

PID: 004-197-666, Lot 3 Except: Firstly: Parcel "A" (Reference Plan 29821) Secondly: Part Subdivided by Plan 30573 and Thirdly: Part Subdivided by Plan 47080, Section 28 Block 5 North Range 6 West New Westminster District Plan 15930

PID: 004-272-200, Lot 2 Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 15930

PID: 004-504-909, Lot 9 Section 28 Block 5 North Range 6 West New Westminster District Plan 7795

PID: 006-111-998, Lot 67 Section 28 Block 5 North Range 6 West New Westminster District Plan 46711

PID: 006-162-843, Lot 69 Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 47080

2. This Bylaw is cited as **"Housing Agreement (Market Rental) (8671, 8731, 8771, 8831/8851 Cambie Road, 8791 Cambie Road and 3600 Sexsmith Road) Bylaw No. 10438.**

FIRST READING
SECOND READING
THIRD READING
ADOPTED

CITY OF RICHMOND
APPROVED for content by originating dept. 
APPROVED for legality by Solicitor 

MAYOR

CORPORATE OFFICER

Schedule A

**Housing Agreement (Market Rental) (8671, 8731, 8771, 8831/8851 Cambie Road, 8791
Cambie Road and 3600 Sexsmith Road) Bylaw No. 10438**

HOUSING AGREEMENT BETWEEN POLYGON TALISMAN PARK LTD. AND
CITY OF RICHMOND

HOUSING AGREEMENT – MARKET RENTAL HOUSING
(Section 483 *Local Government Act*)

THIS AGREEMENT is dated for reference ____ day of _____, 20 ____.

BETWEEN:

POLYGON TALISMAN PARK LTD. (Inc. No. BC1167752), a corporation pursuant to the *Business Corporations Act* and having an address at 900 - 1333 West Broadway, Vancouver, British Columbia, V6H 4C2

(the “**Owner**”)

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**”)

WHEREAS:

- A. Capitalized terms used in these Recitals and in this Agreement shall have the meanings ascribed in Section 1.1;
- B. 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;
- C. The Owner is the owner of the Lands; and
- D. The Owner and the City wish to enter into this Agreement to provide for market rental housing on the terms and conditions set out in this Agreement,

NOW THEREFORE 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 Agreement”** means the agreement entered into between the Owner and the City pursuant to Section 483 of the *Local Government Act*, titled “Affordable Housing Agreement (*Section 483 Local Government Act*)” and noted or to be noted on the title to the Lands, or a Lot or portion thereof, as may be amended and supplemented from time to time;
- (b) **“Affordable Housing Unit”** means a Dwelling Unit or Dwelling Units located or to be located on Lot 1 and 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, or a Lot or portion thereof, and includes, without limiting the generality of the foregoing, the Dwelling Units located or to be located on Lot 1 charged by the Affordable Housing 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 any Lot, or a portion thereof, including each air space parcel into which the Lands or any Lot or any part thereof may be Subdivided from time to time. For greater certainty, each air space parcel and the remainder parcel will be a Building for the purpose of this Agreement;
- (e) **“Building Permit”** means a building permit authorizing construction on the Lands or any Lot 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 provided for residents of the Building in which the Market Rental Housing Units are located, as required by the OCP, CCAP, Rezoning and any applicable Development Permit, and as determined and designated pursuant to the Rezoning and any applicable Development Permit processes, including without limitation visitor parking, the required market rental housing parking, loading bays, and electric vehicle and bicycle charging stations, bicycle storage, 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, 2009 adjusted annually thereafter by adding thereto an amount calculated by multiplying \$100.00 by the percentage change in the CPI since January 1, 2009, 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, mid-rise and high-rise development to be constructed on the Lands;
- (l) **“Development Permit”** means a development permit authorizing development on the Lands or any Lot, 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, a Market Rental Housing Unit;
- (o) **“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 or a Lot or parts thereof from time to time, in respect to the use and transfer of the Market Rental Housing Units located or to be located on Lot 1 or parts thereof;
- (p) **“Interpretation Act”** means the *Interpretation Act*, R.S.B.C. 1996, Chapter 238, together with all amendments thereto and replacements thereof;
- (q) **“Land Title Act”** means the *Land Title Act*, R.S.B.C. 1996, Chapter 250, together with all amendments thereto and replacements thereof;
- (r) **“Lands”** means, collectively, the lands and premises legally described as:
 - (i) PID: 001-943-090, Lot 48 Section 28 Block 5 North Range 6 West New Westminster District Plan 30573;
 - (ii) PID: 003-576-485, East Half Lot 5 Except: Part on Bylaw Plan 57403,

Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 4037;

- (iii) PID: 003-923-088, West Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037;
- (iv) PID: 004-174-135, East Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037 ("**East Half Lot 4**");
- (v) PID: 004-197-666, Lot 3 Except: Firstly: Parcel "A" (Reference Plan 29821) Secondly: Part Subdivided by Plan 30573 and Thirdly: Part Subdivided by Plan 47080, Section 28 Block 5 North Range 6 West New Westminster District Plan 15930;
- (vi) PID: 004-272-200, Lot 2 Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 15930;
- (vii) PID: 004-504-909, Lot 9 Section 28 Block 5 North Range 6 West New Westminster District Plan 7795;
- (viii) PID: 006-111-998, Lot 67 Section 28 Block 5 North Range 6 West New Westminster District Plan 46711; and
- (ix) PID: 006-162-843, Lot 69 Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 47080;
- (s) "**Local Government Act**" means the *Local Government Act*, R.S.B.C. 2015, Chapter 1, together with all amendments thereto and replacements thereof;
- (t) "**Lot 1**" means those lands and premises intended to be Subdivided from the Lands, and which are anticipated to be legally described as Lot 1 Section 27 and 28 Block 5 North Range 6 West New Westminster District Plan EPP120534, and which are generally referred to in connection with the Rezoning as the "South Lot", as may be further Subdivided from time to time, and including a Building or a portion of a Building;
- (u) "**Lot 2**" means those lands and premises intended to be Subdivided from the Lands, and which are anticipated to be legally described Lot 2 Section 27 and 28 Block 5 North Range 6 West New Westminster District Plan EPP120534, and which are generally referred to in connection with the Rezoning as the "East Lot", as may be further Subdivided from time to time, and including a Building or a portion of a Building;
- (v) "**Lot 3**" means those lands and premises intended to be Subdivided from the Lands, and which are anticipated to be legally described as Lot 3 Section 28

Block 5 North Range 6 West New Westminster District Plan EPP120534, and which are generally referred to in connection with the Rezoning as the “West Lot”, as may be further Subdivided from time to time, and including a Building or a portion of a Building;

- (w) “**Lot 4**” means those lands and premises intended to be Subdivided from the Lands, and which are anticipated to be legally described as Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan EPP120534, and which are generally referred to in connection with the Rezoning as the “Central Lot”, as may be further Subdivided from time to time, and including a Building or a portion of a Building;
- (x) “**Lots**” means, collectively, Lot 1, Lot 2, Lot 3 or Lot 4 and “**Lot**” means any one of them;
- (y) “**LTO**” means the New Westminster Land Title Office or its successor;
- (z) “**Market Rent**” means the amount of rent that a willing and reasonable landlord would charge for the rental of a comparable dwelling unit in a comparable location for a comparable period of time;
- (aa) “**Market Rental Housing Unit**” means a Dwelling Unit or Dwelling Units located or to be located on Lot 1 and 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 Units located or to be located on Lot 1 charged by this Agreement;
- (bb) “**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 a Market Rental Housing Unit from time to time;
- (cc) “**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;
- (dd) “**Residential Tenancy Act**” means the *Residential Tenancy Act*, S.B.C. 2002, Chapter 78, together with all amendments thereto and replacements thereof;
- (ee) “**Rezoning**” means the rezoning of the Lands pursuant to the rezoning application made by the Owner under number RZ 18-836123;
- (ff) “**Strata Property Act**” means the *Strata Property Act* S.B.C. 1998, Chapter 43,

together with all amendments thereto and replacements thereof;

- (gg) “**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*;
- (hh) “**Tenancy Agreement**” means a tenancy agreement, lease, license or other agreement granting rights to occupy a Market Rental Housing Unit; and
- (ii) “**Tenant**” means an occupant of a Market Rental 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 a 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 RENTAL HOUSING UNITS

- 2.1 The Owner agrees that each Market Rental Housing Unit may only be used as a permanent residence occupied by a Tenant at or below Market Rent. A Market Rental Housing Unit must not be occupied by the Owner, the Owner’s family members (unless the Owner’s family members qualify as Tenants), or any tenant or guest of the Owner, other than the Tenant. For the purposes of this Article, “permanent residence” means that the Market Rental Housing Unit is used as the usual, main, regular, habitual, principal residence, abode or home of the Tenant.
- 2.2 Within 30 days after receiving notice from the City, the Owner will, in respect of each Market Rental 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 Schedule 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 Market Rental 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 Market Rental 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 any Development Permit unless the first Development Permit for the Development includes the Market Rental Housing Units;

- (b) be issued with any Building Permit unless the first Building Permit (excluding for excavation) includes the Market Rental Housing Units;
- (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 final or provisional occupancy of any Dwelling Unit or Building constructed on the Lands, except for any Affordable Housing Unit or Building containing Affordable Housing Units and related uses and areas, until all of the following conditions are satisfied:
 - (i) the Market Rental Housing Units and related uses and areas have been constructed in accordance with this Agreement, the Housing Covenant, a Development Permit, a Building Permit, and all applicable City bylaws, rules or policies, to the satisfaction of the City;
 - (ii) the Market Rental Housing Units have received final building permit inspection granting provisional or final occupancy of the Market Rental Housing Units; 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 Market Rental Housing Units, any facilities for the use of the Market Rental Housing Units, including Common Amenities; and
- (d) Subdivide the Lands or the portion of the Lands to comprise Lot 1 or any part thereof unless all easements, covenants, rights of way and other agreements, to the satisfaction of the Director of Development and City Solicitor, are in place to secure use of all Common Amenities by the Tenants and any permitted occupants and visitors to the Market Rental Housing Units.

ARTICLE 3

DISPOSITION AND ACQUISITION OF MARKET RENTAL HOUSING UNITS

- 3.1 The Owner will not permit a Market Rental Housing Unit or any Common Amenity assigned for the exclusive use of a Market Rental Housing Unit to be subleased, or a Tenancy Agreement to be assigned, except as required under the *Residential Tenancy Act*.
- 3.2 The Owner will not permit a Market Rental Housing Unit to be used for short term rental purposes (being rentals for periods shorter than 30 days), or any other purposes that do not constitute a “permanent residence” of a Tenant.
- 3.3 If this Agreement encumbers more than one Market Rental Housing Unit, the following

will apply:

- (a) the Owner will not, without the prior written consent of the City, sell or transfer less than all of the Market Rental Housing Units located in one Building in a single or related series of transactions, with the result that when the purchaser or transferee of the Market Rental Housing Units becomes the owner, the purchaser or transferee will be the legal and beneficial owner of not less than all of the Market Rental Housing Units in the Building;
 - (b) the Owner will not Subdivide that portion of the Lands which is to comprise Lot 1 in any manner which would result in the Market Rental Housing Units being contained within individual strata lots, the Owner acknowledging and agreeing that if that portion of the Lands containing the Market Rental Housing Units is subject to Subdivision by a Strata Plan, that the Market Rental Housing Units will together form no more than one (1) strata lot;
 - (c) if the Development contains one or more air space parcels, each air space parcel and the remainder within each air space plan will be a "Building" for the purpose of this section 3.3; and
 - (d) that portion of the Lands which is to comprise Lot 1 will not be Subdivided such that one or more Market Rental Housing Units form their own air space parcel, separate from other Dwelling Units located or to be located on Lot 1, without the prior written consent of the City.
- 3.4 If the Owner sells or transfers any Market Rental Housing Units, the Owner will notify the City Solicitor of the sale or transfer within three (3) days of the effective date of sale or transfer.
- 3.5 The Owner will not rent, lease, license or otherwise permit occupancy of any Market Rental Housing Unit except to a Tenant and except in accordance with the following additional conditions:
- (a) the Market Rental Housing Unit will be used or occupied only pursuant to a Tenancy Agreement;
 - (b) the monthly rent payable for the Market Rental Housing Unit will be at or below Market Rent;
 - (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;
 - (d) the Owner will not require the Tenant or any permitted occupant to pay any extra charges or fees for use of any of the following:

- (i) strata fees;
- (ii) strata property contingency reserve fees;
- (iii) extra charges or fees for use of any Common Amenities, common property, limited common property, or other common areas, facilities or amenities, including without limitation parking, bicycle storage, electric vehicle and bicycle charging stations or related facilities;
- (iv) extra charges for the use of sanitary sewer, storm sewer, or water, except for the use of water, including heated or cooled water provided by a utility provider including a district energy utility, which is metered or sub-metered or otherwise calculated and allocated on the basis of use, in respect of the use of such water by the Market Rental Housing Unit; or
- (v) property or similar tax;

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

- (vi) providing cable television, telephone, other telecommunications, or electricity fees (including electricity fees and charges associated with the Tenant's use of electrical vehicle and bicycle charging infrastructure); and
- (vii) 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.

- 3.6 The Owner will attach a copy of this Agreement to every Tenancy Agreement.
- 3.7 The Owner will include in the Tenancy Agreement a clause requiring the Tenant and each permitted occupant of the Market Rental Housing Unit to comply with this Agreement; for clarity, the aforesaid will not lessen the Owner's obligations under this Agreement or be deemed a delegation of the Owner's obligations under this Agreement.
- 3.8 The Owner shall not impose any age-based restrictions on Tenants of Market Rental Housing Units, unless expressly permitted by the City in writing in advance.

ARTICLE 4 DEMOLITION OF MARKET RENTAL HOUSING UNIT

- 4.1 The Owner will not demolish a Market Rental 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 the Market Rental Housing Unit is no

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Market Rental Housing Agreement (Section 483 *Local Government Act*)
 Polygon Talisman Park Ltd. – Talisman Park
 Application No. RZ 18-836123
 Rezoning Condition No. 15
 Lot 1, Lot 2, Lot 3, Lot 4
 for Lot 1 Market Rental Housing Units

longer reasonable or practical to repair or replace any structural component of the Market Rental Housing Unit, and the Owner has delivered to the City a copy of the engineer's or architect's report; or

- (b) the Market Rental 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 Market Rental Housing Unit has been issued by the City and the Market Rental 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 a Market Rental 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 or applicable Lot or part thereof which contain the Market Rental Housing Units.
- 5.2 Any strata corporation bylaw which prevents, restricts or abridges the right to use the Market Rental Housing Units as rental accommodation, or imposes age-based restrictions on Tenants of Market Rental Housing Units, or is otherwise inconsistent with this Agreement, will have no force and effect, unless expressly approved by the City in writing in advance.
- 5.3 No strata corporation shall pass any bylaws preventing, restricting or abridging the use of the Market Rental 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 a Market Rental 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 Market Rental 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.
- 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 a Market

Rental Housing Unit paying for the use of parking, bicycle storage, electric vehicle and bicycle charging stations or related facilities contrary to section 3.5(d). Notwithstanding the foregoing, the strata corporation may levy such parking, bicycle storage, electric vehicle and bicycle 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 Market Rental Housing Units; provided, however, that the electricity fees, charges or rates for use of electric vehicle and bicycle charging stations are excluded from this provision.

- 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 a Market Rental 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 which are not Market Rental Housing Units.

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) a Market Rental Housing Unit is used or occupied in breach of this Agreement
- (b) a Market Rental Housing Unit is rented at a rate in excess of the Market Rent; or
- (c) 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 (10) 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.

- 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 a Market Rental Housing Unit is a separate legal parcel the City may file notice of this Agreement in the LTO against the title to the Market Rental 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, then after the Lands are Subdivided and after partial or final occupancy has been granted for all Market Rental Housing Units, this Agreement will secure only the legal parcels which contain the Market Rental Housing Units.

The City will partially discharge this Agreement accordingly, provided however that:

- (i) the City has no obligation to execute such discharge until a written request therefor from the Owners is received by the City, which request includes the registrable form of discharge;
- (ii) the cost of the preparation of the aforesaid discharge, and the cost of registration of the same in the LTO is paid by the Owners;
- (iii) the City has a reasonable time within which to execute the discharge and return the same to the Owners for registration; and
- (iv) the Owners acknowledge that such discharge is without prejudice to the indemnity and release set forth in sections 7.5 and 7.6.

The Owner acknowledges and agrees that notwithstanding a partial discharge of this Agreement, this Agreement will be and remain in full force and effect and, but for the partial discharge, otherwise unamended.

7.2 No Compensation

The Owner acknowledges and agrees that no compensation is payable, and the Owner is

116565481 v8

Market Rental Housing Agreement (Section 483 *Local Government Act*)
Polygon Talisman Park Ltd. – Talisman Park
Application No. RZ 18-836123
Rezoning Condition No. 15
Lot 1, Lot 2, Lot 3, Lot 4
for Lot 1 Market Rental Housing Units

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 Market Rental Housing Units and will permit representatives of the City to inspect the Market Rental 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 Market Rental 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.

The Owner further covenants and agrees that it will vote:

- (a) as owner of the Market Rental Housing Units, in any applicable annual general meetings or special general meetings of a strata corporation; and
- (b) as owner of any air space parcel containing the Market Rental Housing Units at any applicable meetings of the owners of other Subdivided parcels of that portion of the Lands to comprise Lot 1 or part thereof,

to ensure that the Common Amenities are maintained in a good state of repair by the strata corporation which includes the Market Rental Housing Units and any of the Common Amenities, and the owner of the applicable air space parcel or remainder parcel which includes any of the Common Amenities, as applicable.

Notwithstanding the foregoing, 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 Market Rental 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, arising out of or in connection, directly or indirectly, or that would not or could not have occurred “but for” this Agreement;
- (c) the construction, maintenance, repair, ownership, lease, license, operation, management or financing of the Lands or any Market Rental 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 Market Rental 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, arising out of or in connection, directly or indirectly, or that would not or could not have occurred “but for” this Agreement; 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, including but not limited to sections 7.5 and 7.6 above, 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 a Building or any portion thereof, including any Market Rental 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 copy to: City Solicitor and the Director of 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.

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 Market Rental 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 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.

7.24 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, or parts thereof, provided however that notwithstanding that the Owner is no longer the registered owner of the Lands, or parts thereof, the Owner will remain liable for breaches of this Agreement that occurred while the Owner was the registered owner of the Lands, or parts thereof. For the avoidance of

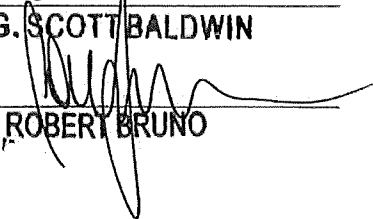
doubt, the Owner shall only be liable for breaches of this Agreement as registered owner of those portions of the Lands from which this Agreement has not been discharged in accordance with and subject to section 7.1(c).

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

POLYGON TALISMAN PARK LTD. (Inc. No. BC1167752)

by its authorized signatory(ies):

Per: 
 Name: G. SCOTT BALDWIN

Per: 
 Name: ROBERT BRUNO

CITY OF RICHMOND

by its authorized signatory(ies):

Per: _____
 Malcolm D. Brodie, Mayor

Per: _____
 Claudia Jesson, Corporate Officer

CITY OF RICHMOND
APPROVED for content by originating dept.
Legal Advice
DATE OF COUNCIL APPROVAL (if applicable)

Schedule A to Market Rental Housing Agreement

STATUTORY DECLARATION

CANADA	)	IN THE MATTER OF A
	)	HOUSING AGREEMENT WITH
PROVINCE OF BRITISH COLUMBIA	)	THE CITY OF RICHMOND
	)	("Market Rental Housing Agreement")

TO WIT:

I, _____ of _____, British Columbia, do solemnly declare that:

1. I am the owner or authorized signatory of the owner of _____ (the "Market Rental Housing Unit"), and make this declaration to the best of my personal knowledge.
2. This declaration is made pursuant to the Market Rental Housing Agreement in respect of the Market Rental Housing Unit.
3. To the best of my knowledge, for the period from _____ to _____, the Market Rental Housing Unit was used solely for the provision of rental housing for Tenants (as defined in the Market Rental Housing Agreement) at or below Market Rent (as defined in the Market Rental Housing Agreement).
4. 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

PRIORITY AGREEMENT

HSBC BANK CANADA (the “**Chargeholder**”) is the holder of Mortgages and Assignments of Rents (and any related extensions thereof):


- (i) Mortgage CA6831107,
- (ii) Assignment of Rents CA6831108,
- (iii) Mortgage CA6877435, and
- (iv) Assignment of Rents CA6877436,

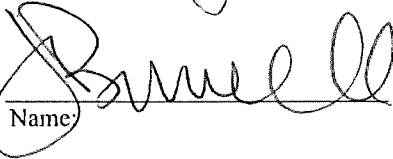
registered in the LTO (collectively, the “**Bank Charges**”) against title to, in respect of Mortgage CA6831107 and Assignment of Rents CA6831108, the Lands other than East Half Lot 4, and in respect of Mortgage CA6877435 and Assignment of Rents CA6877436, East Half Lot 4. Words capitalized in this priority agreement, not otherwise defined herein, have the meaning ascribed to them in the agreement to which this priority agreement is attached (the “**Market Rental Housing Agreement**”).

The Chargeholder, being the holder of the Bank Charges, by signing below, in consideration of the payment of Ten Dollars (\$10.00) and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the Chargeholder), hereby consents to the granting of the covenants in the Market Rental Housing Agreement by the Owner and hereby covenants that the Market Rental Housing Agreement shall rank in priority upon the Lands over the Bank Charges as if the Market Rental Housing Agreement had been signed, sealed and delivered and noted on title to the Lands prior to the Bank Charges and prior to the advance of any monies pursuant to the Bank Charges. The grant of priority is irrevocable, unqualified and without reservation or limitation.

HSBC BANK CANADA

by its authorized signatory(ies):

Per:  **GARY KATAYAMA**
 Assistant Vice President
 Commercial Real Estate

Per:  **Jessica Brummell**
 Vice President
 Commercial Real Estate



**Housing Agreement (Market Rental) (8791 Cambie Road/3600
Sexsmith Road) Bylaw No. 10439**

The Council of the City of Richmond enacts as follows:

1. 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: 001-943-090, Lot 48 Section 28 Block 5 North Range 6 West New Westminster District Plan 30573

PID: 003-576-485, East Half Lot 5 Except: Part on Bylaw Plan 57403, Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 4037;

PID: 003-923-088, West Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037

PID: 004-174-135, East Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037 ("East Half Lot 4")

PID: 004-197-666, Lot 3 Except: Firstly: Parcel "A" (Reference Plan 29821) Secondly: Part Subdivided by Plan 30573 and Thirdly: Part Subdivided by Plan 47080, Section 28 Block 5 North Range 6 West New Westminster District Plan 15930

PID: 004-272-200, Lot 2 Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 15930

PID: 004-504-909, Lot 9 Section 28 Block 5 North Range 6 West New Westminster District Plan 7795

PID: 006-111-998, Lot 67 Section 28 Block 5 North Range 6 West New Westminster District Plan 46711

PID: 006-162-843, Lot 69 Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 47080


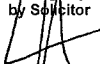
2. This Bylaw is cited as **"Housing Agreement (Market Rental) (8791 Cambie Road/3600 Sexsmith Road) Bylaw No. 10439"**.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED for content by originating dept. 
APPROVED for legality by Solicitor 

MAYOR

CORPORATE OFFICER

Schedule A

**Housing Agreement (Market Rental) (8791 Cambie Road/3600 Sexsmith Road) Bylaw No.
10439**

HOUSING AGREEMENT BETWEEN POLYGON TALISMAN PARK LTD. AND
CITY OF RICHMOND

HOUSING AGREEMENT – MARKET RENTAL HOUSING
(Section 483 *Local Government Act*)

THIS AGREEMENT is dated for reference ____ day of _____, 20 ____.

BETWEEN:

POLYGON TALISMAN PARK LTD. (Inc. No. BC1167752), a corporation pursuant to the *Business Corporations Act* and having an address at 900 - 1333 West Broadway, Vancouver, British Columbia, V6H 4C2

(the “**Owner**”)

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**”)

WHEREAS:

- A. Capitalized terms used in these Recitals and in this Agreement shall have the meanings ascribed in Section 1.1;
- B. 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;
- C. The Owner is the owner of the Lands; and
- D. The Owner and the City wish to enter into this Agreement to provide for market rental housing on the terms and conditions set out in this Agreement,

NOW THEREFORE 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) “**Agreement**” means this agreement together with all schedules, attachments and priority agreements attached hereto;
- (b) “**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 or a portion thereof (including, if and when applicable, Lot 4) may be Subdivided from time to time. For greater certainty, each air space parcel and the remainder parcel will be a Building for the purpose of this Agreement;
- (c) “**Building Permit**” means a building permit authorizing construction on the Lands or any portion(s) thereof (including, if and when applicable, Lot 4);
- (d) “**City**” means the City of Richmond;
- (e) “**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;
- (f) “**Common Amenities**” means all indoor and outdoor areas, recreational facilities and amenities that are provided for residents of the Building in which the Market Rental Housing Units are located, as required by the OCP, CCAP, Rezoning and any applicable Development Permit, and as determined and designated pursuant to the Rezoning and any applicable Development Permit processes, including without limitation visitor parking, the required market rental housing parking, loading bays, and electric vehicle and bicycle charging stations, bicycle storage, and related access routes;
- (g) “**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;
- (h) “**Daily Amount**” means \$100.00 per day as of January 1, 2009 adjusted annually thereafter by adding thereto an amount calculated by multiplying \$100.00 by the percentage change in the CPI since January 1, 2009, 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;
- (i) “**Development**” means the mixed-use, mid-rise and high-rise development to be constructed on the Lands;
- (j) “**Development Permit**” means a development permit authorizing development on

the Lands, or any portion(s) thereof (including, if and when applicable, Lot 4);

- (k) **“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;
- (l) **“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, a Market Rental Housing Unit;
- (m) **“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 or parts thereof from time to time, in respect to the use and transfer of the Market Rental Housing Units located or to be located on Lot 4 or parts thereof;
- (n) **“Interpretation Act”** means the *Interpretation Act*, R.S.B.C. 1996, Chapter 238, together with all amendments thereto and replacements thereof;
- (o) **“Land Title Act”** means the *Land Title Act*, R.S.B.C. 1996, Chapter 250, together with all amendments thereto and replacements thereof;
- (p) **“Lands”** means, collectively, the lands and premises legally described as:
 - (i) PID: 001-943-090, Lot 48 Section 28 Block 5 North Range 6 West New Westminster District Plan 30573;
 - (ii) PID: 003-576-485, East Half Lot 5 Except: Part on Bylaw Plan 57403, Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 4037;
 - (iii) PID: 003-923-088, West Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037;
 - (iv) PID: 004-174-135, East Half Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan 4037 (**“East Half Lot 4”**);
 - (v) PID: 004-197-666, Lot 3 Except: Firstly: Parcel “A” (Reference Plan 29821) Secondly: Part Subdivided by Plan 30573 and Thirdly: Part Subdivided by Plan 47080, Section 28 Block 5 North Range 6 West New Westminster District Plan 15930;
 - (vi) PID: 004-272-200, Lot 2 Sections 27 and 28 Block 5 North Range 6 West

New Westminster District Plan 15930;

- (vii) PID: 004-504-909, Lot 9 Section 28 Block 5 North Range 6 West New Westminster District Plan 7795;
- (viii) PID: 006-111-998, Lot 67 Section 28 Block 5 North Range 6 West New Westminster District Plan 46711; and
- (ix) PID: 006-162-843, Lot 69 Sections 27 and 28 Block 5 North Range 6 West New Westminster District Plan 47080;
- (q) “**Local Government Act**” means the *Local Government Act*, R.S.B.C. 2015, Chapter 1, together with all amendments thereto and replacements thereof;
- (r) “**Lot 4**” means those lands and premises intended to be Subdivided from the Lands, and which are anticipated to be legally described Lot 4 Section 28 Block 5 North Range 6 West New Westminster District Plan EPP120534, and which are generally referred to in connection with the Rezoning as the “Central Lot”, as may be further Subdivided from time to time, and including a Building or a portion of a Building;
- (s) “**LTO**” means the New Westminster Land Title Office or its successor;
- (t) “**Market Rent**” means the amount of rent that a willing and reasonable landlord would charge for the rental of a comparable dwelling unit in a comparable location for a comparable period of time;
- (u) “**Market Rental Housing Unit**” means a Dwelling Unit or Dwelling Units located or to be located on Lot 4 and 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 Units located or to be located on Lot 4 charged by this Agreement;
- (v) “**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 a Market Rental Housing Unit from time to time;
- (w) “**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;
- (x) “**Residential Tenancy Act**” means the *Residential Tenancy Act*, S.B.C. 2002,

Chapter 78, together with all amendments thereto and replacements thereof;

- (y) “**Rezoning**” means the rezoning of the Lands pursuant to the rezoning application made by the Owner under number RZ 18-836123;
- (z) “***Strata Property Act***” means the *Strata Property Act* S.B.C. 1998, Chapter 43, together with all amendments thereto and replacements thereof;
- (aa) “**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*;
- (bb) “**Tenancy Agreement**” means a tenancy agreement, lease, license or other agreement granting rights to occupy a Market Rental Housing Unit; and
- (cc) “**Tenant**” means an occupant of a Market Rental 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 a 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 RENTAL HOUSING UNITS

- 2.1 The Owner agrees that each Market Rental Housing Unit may only be used as a permanent residence occupied by a Tenant at or below Market Rent. A Market Rental Housing Unit must not be occupied by the Owner, the Owner’s family members (unless the Owner’s family members qualify as Tenants), or any tenant or guest of the Owner, other than the Tenant. For the purposes of this Article, “permanent residence” means that the Market Rental Housing Unit is used as the usual, main, regular, habitual, principal residence, abode or home of the Tenant.
- 2.2 Within 30 days after receiving notice from the City, the Owner will, in respect of each Market Rental 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 Schedule 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 Market Rental 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 Market Rental 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 in respect of development on that portion of the Lands to comprise Lot 4 unless the Development Permit includes the Market Rental Housing Units;
 - (b) be issued with a Building Permit for construction on that portion of the Lands to comprise Lot 4 unless the Building Permit includes the Market Rental 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 that portion of the Lands to comprise Lot 4 and the City will not be obligated to permit final or provisional occupancy of any Dwelling Unit or Building constructed on such portion of the Lands to comprise Lot 4 until all of the following conditions are satisfied:
 - (i) the Market Rental Housing Units and related uses and areas have been constructed in accordance with this Agreement, the Housing Covenant, a Development Permit, a Building Permit, and all applicable City bylaws, rules or policies, to the satisfaction of the City;
 - (ii) the Market Rental Housing Units have received final building permit inspection granting provisional or final occupancy of the Market Rental Housing Units; 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 Market Rental Housing Units, any facilities for the use of the Market Rental Housing Units, including Common Amenities; and
 - (d) Subdivide the Lands or the portion of the Lands to comprise Lot 4 or any part thereof unless all easements, covenants, rights of way and other agreements, to the satisfaction of the Director of Development and City Solicitor, are in place to secure use of all Common Amenities by the Tenants and any permitted occupants and visitors to the Market Rental Housing Units.

ARTICLE 3

DISPOSITION AND ACQUISITION OF MARKET RENTAL HOUSING UNITS

- 3.1 The Owner will not permit a Market Rental Housing Unit or any Common Amenity assigned for the exclusive use of a Market Rental Housing Unit to be subleased, or a Tenancy Agreement to be assigned, except as required under the *Residential Tenancy Act*.

- 3.2 The Owner will not permit a Market Rental Housing Unit to be used for short term rental purposes (being rentals for periods shorter than 30 days), or any other purposes that do not constitute a “permanent residence” of a Tenant.
- 3.3 If this Agreement encumbers more than one Market Rental Housing Unit, the following will apply:
- (a) the Owner will not, without the prior written consent of the City, sell or transfer less than all of the Market Rental Housing Units located in one Building in a single or related series of transactions, with the result that when the purchaser or transferee of the Market Rental Housing Units becomes the owner, the purchaser or transferee will be the legal and beneficial owner of not less than all of the Market Rental Housing Units in the Building;
 - (b) the Owner will not Subdivide that portion of the Lands which is to comprise Lot 4 in any manner which would result in the Market Rental Housing Units being contained within individual strata lots, except and unless approved by the Director of Development in the Director of Development’s sole and absolute discretion, the Owner acknowledging and agreeing that if that portion of the Lands containing the Market Rental Housing Units is subject to Subdivision by a Strata Plan, that the Market Rental Housing Units will together form no more than one (1) strata lot, except and unless approved by the Director of Development in the Director of Development’s sole and absolute discretion;
 - (c) if the Development contains one or more air space parcels, each air space parcel and the remainder within each air space plan will be a “Building” for the purpose of this section 3.3; and
 - (d) that portion of the Lands which is to comprise Lot 4 will not be further Subdivided such that one or more Market Rental Housing Units form their own air space parcel, separate from other Dwelling Units located or to be located on Lot 4, without the prior written consent of the City.
- 3.4 If the Owner sells or transfers any Market Rental Housing Units, the Owner will notify the City Solicitor of the sale or transfer within three (3) days of the effective date of sale or transfer.
- 3.5 The Owner will not rent, lease, license or otherwise permit occupancy of any Market Rental Housing Unit except to a Tenant and except in accordance with the following additional conditions:
- (a) the Market Rental Housing Unit will be used or occupied only pursuant to a Tenancy Agreement;
 - (b) the monthly rent payable for the Market Rental Housing Unit will be at or below

Market Rent;

- (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;
 - (d) the Owner will not require the Tenant or any permitted occupant to pay any extra charges or fees for use of any of the following:
 - (i) strata fees;
 - (ii) strata property contingency reserve fees;
 - (iii) extra charges or fees for use of any Common Amenities, common property, limited common property, or other common areas, facilities or amenities, including without limitation parking, bicycle storage, electric vehicle and bicycle charging stations or related facilities;
 - (iv) extra charges for the use of sanitary sewer, storm sewer, or water, except for the use of water, including heated or cooled water provided by a utility provider including a district energy utility, which is metered or sub-metered or otherwise calculated and allocated on the basis of use, in respect of the use of such water by the Market Rental Housing Unit; or
 - (v) property or similar tax;
- provided, however, that if the Market Rental Housing Unit is a strata unit and the following costs are not part of strata or similar fees, an Owner may charge the Tenant the Owner's cost, if any, of:
- (vi) providing cable television, telephone, other telecommunications, or electricity fees (including electricity fees and charges associated with the Tenant's use of electrical vehicle and bicycle charging infrastructure); and
 - (vii) 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.

3.6 The Owner will attach a copy of this Agreement to every Tenancy Agreement.

3.7 The Owner will include in the Tenancy Agreement a clause requiring the Tenant and each permitted occupant of the Market Rental Housing Unit to comply with this Agreement; for clarity, the aforesaid will not lessen the Owner's obligations under this Agreement or be deemed a delegation of the Owner's obligations under this Agreement.

3.8 The Owner shall not impose any age-based restrictions on Tenants of Market Rental

Housing Units, unless expressly permitted by the City in writing in advance.

ARTICLE 4 DEMOLITION OF MARKET RENTAL HOUSING UNIT

- 4.1 The Owner will not demolish a Market Rental 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 the Market Rental Housing Unit is no longer reasonable or practical to repair or replace any structural component of the Market Rental Housing Unit, and the Owner has delivered to the City a copy of the engineer's or architect's report; or
 - (b) the Market Rental 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 Market Rental Housing Unit has been issued by the City and the Market Rental 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 a Market Rental 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 which contain the Market Rental Housing Units.
- 5.2 Any strata corporation bylaw which prevents, restricts or abridges the right to use the Market Rental Housing Units as rental accommodation, or imposes age-based restrictions on Tenants of Market Rental Housing Units, or is otherwise inconsistent with this Agreement, will have no force and effect, unless expressly approved by the City in writing in advance.
- 5.3 No strata corporation shall pass any bylaws preventing, restricting or abridging the use of the Market Rental 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 a Market Rental 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 Market Rental 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.

- 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 a Market Rental Housing Unit paying for the use of parking, bicycle storage, electric vehicle and bicycle charging stations or related facilities contrary to section 3.5(d). Notwithstanding the foregoing, the strata corporation may levy such parking, bicycle storage, electric vehicle and bicycle 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 Market Rental Housing Units; provided, however, that the electricity fees, charges or rates for use of electric vehicle and bicycle charging stations are excluded from this provision.
- 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 a Market Rental 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 which are not Market Rental Housing Units.

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) a Market Rental Housing Unit is used or occupied in breach of this Agreement
 - (b) a Market Rental Housing Unit is rented at a rate in excess of the Market Rent; or
 - (c) 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 (10) 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.

- 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 a Market Rental Housing Unit is a separate legal parcel the City may file notice of this Agreement in the LTO against the title to the Market Rental 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, then after the Lands are Subdivided, this Agreement will secure only the legal parcels which contain or are to contain the Market Rental Housing Units.

The City will partially discharge this Agreement accordingly, provided however that:

- (i) the City has no obligation to execute such discharge until a written request therefor from the Owners is received by the City, which request includes the registrable form of discharge;
- (ii) the cost of the preparation of the aforesaid discharge, and the cost of registration of the same in the LTO is paid by the Owners;
- (iii) the City has a reasonable time within which to execute the discharge and return the same to the Owners for registration; and
- (iv) the Owners acknowledge that such discharge is without prejudice to the indemnity and release set forth in sections 7.5 and 7.6.

The Owner acknowledges and agrees that notwithstanding a partial discharge of this Agreement, this Agreement will be and remain in full force and effect and,

but for the partial discharge, otherwise unamended.

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 Market Rental Housing Units and will permit representatives of the City to inspect the Market Rental 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 Market Rental 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.

The Owner further covenants and agrees that it will vote:

- (a) as owner of the Market Rental Housing Units, in any applicable annual general meetings or special general meetings of a strata corporation; and
- (b) as owner of any air space parcel containing the Market Rental Housing Units at any applicable meetings of the owners of other Subdivided parcels of that portion of the Lands to comprise Lot 4 or part thereof,

to ensure that the Common Amenities are maintained in a good state of repair by the strata corporation which includes the Market Rental Housing Units and any of the Common Amenities, and the owner of the applicable air space parcel or remainder parcel which includes any of the Common Amenities, as applicable.

Notwithstanding the foregoing, 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 Market Rental 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, arising out of or in connection, directly or indirectly, or that would not or could not have occurred “but for” this Agreement;
- (c) the construction, maintenance, repair, ownership, lease, license, operation, management or financing of the Lands or any Market Rental 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 Market Rental 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, arising out of or in connection, directly or indirectly, or that would not or could not have occurred “but for” this Agreement; 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, including but not limited to sections 7.5 and 7.6 above, 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 Market Rental 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 copy to: City Solicitor and the Director of 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.

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 Market Rental 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 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.

7.24 Limitation on Owner's Obligations


The Owner is only liable for breaches of this Agreement that occur while the Owner is

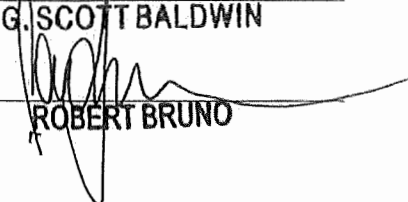
the registered owner of the Lands, or parts thereof, provided however that notwithstanding that the Owner is no longer the registered owner of the Lands, or parts thereof, the Owner will remain liable for breaches of this Agreement that occurred while the Owner was the registered owner of the Lands, or parts thereof. For the avoidance of doubt, the Owner shall only be liable for breaches of this Agreement as registered owner of those portions of the Lands from which this Agreement has not been discharged in accordance with and subject to section 7.1(c).

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

POLYGON TALISMAN PARK LTD. (Inc. No. BC1167752)

by its authorized signatory(ies):

Per: 
 Name: G. SCOTT BALDWIN

Per: 
 Name: ROBERT BRUNO

CITY OF RICHMOND

by its authorized signatory(ies):

Per: _____
 Malcolm D. Brodie, Mayor

Per: _____
 Claudia Jesson, Corporate Officer

CITY OF RICHMOND
APPROVED for content by originating dept
Legal Advice
DATE OF COUNCIL APPROVAL (if applicable)

Schedule A to Market Rental Housing Agreement

STATUTORY DECLARATION

CANADA	)	IN THE MATTER OF A
	)	HOUSING AGREEMENT WITH
PROVINCE OF BRITISH COLUMBIA	)	THE CITY OF RICHMOND
	)	("Market Rental Housing Agreement")

TO WIT:

I, _____ of _____, British Columbia, do solemnly declare that:

1. I am the owner or authorized signatory of the owner of _____ (the "Market Rental Housing Unit"), and make this declaration to the best of my personal knowledge.
2. This declaration is made pursuant to the Market Rental Housing Agreement in respect of the Market Rental Housing Unit.
3. To the best of my knowledge, for the period from _____ to _____, the Market Rental Housing Unit was used solely for the provision of rental housing for Tenants (as defined in the Market Rental Housing Agreement) at or below Market Rent (as defined in the Market Rental Housing Agreement).
4. 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

PRIORITY AGREEMENT

HSBC BANK CANADA (the “**Chargeholder**”) is the holder of Mortgages and Assignments of Rents (and any related extensions thereof):


- (i) Mortgage CA6831107,
- (ii) Assignment of Rents CA6831108,
- (iii) Mortgage CA6877435, and
- (iv) Assignment of Rents CA6877436,

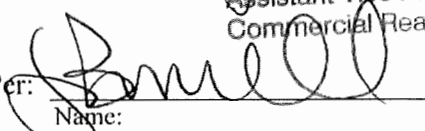
registered in the LTO (collectively, the “**Bank Charges**”) against title to, in respect of Mortgage CA6831107 and Assignment of Rents CA6831108, the Lands other than East Half Lot 4, and in respect of Mortgage CA6877435 and Assignment of Rents CA6877436, East Half Lot 4. Words capitalized in this priority agreement, not otherwise defined herein, have the meaning ascribed to them in the agreement to which this priority agreement is attached (the “**Market Rental Housing Agreement**”).

The Chargeholder, being the holder of the Bank Charges, by signing below, in consideration of the payment of Ten Dollars (\$10.00) and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the Chargeholder), hereby consents to the granting of the covenants in the Market Rental Housing Agreement by the Owner and hereby covenants that the Market Rental Housing Agreement shall rank in priority upon the Lands over the Bank Charges as if the Market Rental Housing Agreement had been signed, sealed and delivered and noted on title to the Lands prior to the Bank Charges and prior to the advance of any monies pursuant to the Bank Charges. The grant of priority is irrevocable, unqualified and without reservation or limitation.

HSBC BANK CANADA

by its authorized signatory(ies):

Per: 
Name: **GARY KATAYAMA**
Assistant Vice President
Commercial Real Estate

Per: 
Name: **Jessica Brummeli**
Vice President
Commercial Real Estate