

TO: MAYOR & COUNCILLORS
FROM: GENERAL MANAGER PLANNING AND DEVELOPMENT
SUBJECT: **BURNABY HOUSING AUTHORITY – REQUEST TO REVISE DRAFT ARTICLES OF INCORPORATION**
PURPOSE: To obtain Council authorization to amend the draft Burnaby Housing Authority Articles of Incorporation based on direction received from the Ministry of Municipal Affairs.

RECOMMENDATION

THAT the draft Burnaby Housing Authority Articles of Incorporation be amended to limit investment of cash in excess of current operating requirements to investments described in Section 183 of the *Community Charter*, as set out in Attachment 2 of this report, and submitted to the Inspector of Municipalities.

1.0 POLICY SECTION

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

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

Based on Council's direction to establish the BHA as a wholly owned municipal corporation, the City is required under Section 185 of the *Community Charter* to seek approval from the Inspector of Municipalities (Inspector) to create a municipal corporation. The Inspector's review of the City's submission is a key part of the approval process, set out in legislation, that aims to safeguard the public interest.

2.0 BACKGROUND

On October 16, 2023, Council approved the creation of the BHA, authorized staff to submit a request to the Inspector to approve formation of the BHA as a municipal

corporation and directed staff to include planned financial contributions and financing for the BHA in the 2024-2028 Financial Plan¹. The submission to the Inspector was formally made on November 15, 2023. The submission included the required documents, including the final draft Articles of Incorporation (Articles) and a finalized Business Plan, as well as a description of the process taken by the City to inform and involve the public on the creation of the BHA, and an explanation of how input received was used to shape the structure of the proposed corporation and its draft Articles.

3.0 GENERAL INFORMATION

On February 28, 2024, following correspondence with the Ministry of Municipal Affairs (Ministry), the City was asked to amend the draft BHA Articles to restrict the BHA’s ability to invest or reinvest surplus funds held in excess of operational requirements or that are not immediately required by the BHA to the same types of investments permitted to be made by municipalities under Section 183 of the *Community Charter*:

Investment of municipal funds

183 Money held by a municipality that is not immediately required may only be invested or reinvested in one or more of the following:

- (a) securities of the Municipal Finance Authority;
- (b) pooled investment funds under section 16 of the Municipal Finance Authority Act;
- (c) securities of Canada or of a province;
- (d) securities guaranteed for principal and interest by Canada or by a province;
- (e) securities of a municipality, regional district or greater board;
- (f) investments guaranteed by a chartered bank;
- (g) deposits in a savings institution, or non-equity or membership shares of a credit union;
- (h) other investments specifically authorized under this or another Act.

The impact of this amendment to the draft BHA Articles is expected to be minimal. Furthermore, including this limitation in the draft Articles on how the BHA may invest its cash reserves would provide the City with an additional layer of control, supplementing the forthcoming Partnering Agreement between the City and the BHA, which will establish the terms and conditions upon which the City may provide assistance, including funding and financing, to the BHA. As a reminder, the municipal controls included within the Articles, including the proposed amendment requested by the

¹ The 2024-2028 Financial Plan, approved by Council in January 2024, includes a planned contribution of \$475,000 in 2024 for one-time BHA start-up capital expenditures funded from the Community Benefit Bonus Affordable Housing Reserve (CBBAHR), a planned contribution of \$2 million per year for five years (2024 to 2028) for BHA operating expenses funded from the Operating Housing Reserve, and planned financing of \$100 million over five years (2024 to 2028) for BHA affordable housing projects funded from the CBBAHR.

Ministry, and anticipated to be in the Partnering Agreement, are summarized in Attachment 1.

Staff have confirmed with the Ministry that this requested amendment would not limit the BHA’s ability to invest in lands and buildings in Burnaby to deliver new non-market housing, as stated in Section 1.3 (Company Purposes) in the draft BHA Articles:

1.3. Company Purposes

The purposes of the Company are to engage in business activities related to the acquisition, development, construction, management and administration of land and housing in the City of Burnaby, including the following:

- (1) investing in, developing, marketing, acquiring, holding and disposing of lands and buildings for the purposes of providing non-market and market rental housing and non-market homeownership units, including co-operative housing, in the City of Burnaby, including developing non-residential real estate assets that are ancillary to housing;
- (2) securing funding, managing, operating, maintaining and carrying out other requirements for the Company as the developer and owner of housing units in conjunction with not-for-profits and other public and private organizations; and
- (3) administering housing operations and agreements and the Company’s portfolio and other non-market housing on lands owned by the City of Burnaby.

Section 183 of the *Community Charter* applies only to investment of cash in excess of current operating requirements. An amended version of the draft BHA Articles which limits investment of cash in excess of current operating requirements to investments described in Section 183 of the *Community Charter* is provided in Attachment 2 for Council consideration.

Ministry staff have indicated this is the only revision required prior to staff recommending to the Inspector to approve the incorporation of the BHA, noting that the Inspector may have further questions upon review. In the meantime, staff continue to advance other activities related to the creation of the BHA, including creating a shortlist of potential candidates for the BHA Board of Directors, which will be brought forward for Council consideration once approval from the Inspector is received.

4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT

Not applicable.

5.0 FINANCIAL CONSIDERATIONS

In furtherance of its corporate purpose of increasing the supply of non-market housing in Burnaby, the BHA may, as part of its regular operating activities, invest and participate in business structures such as partnerships and joint-ventures. Amending the draft BHA Articles to limit the BHA’s investment of cash in excess of current operating requirements to investments described in Section 183 of the *Community Charter* is not

anticipated to impact the BHA's ability to carry out these types of regular operating activities.

Respectfully submitted,

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For
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ATTACHMENTS

Attachment 1 – Municipal Controls relating to the BHA

Attachment 2 – Amended draft BHA Articles of Incorporation

REPORT CONTRIBUTORS

This report was prepared by Wendy Tse, Director Community Planning and reviewed by David Clutton, Planner 2, Richard Mester, Manager Business Process and Reporting, Jennifer Wong, Assistant City Solicitor, Bob Klimek, Deputy General Manager Finance, and Lee-Ann Garnett, Deputy General Manager Planning and Development.

Municipal Controls Relating to the Burnaby Housing Authority

Articles of Incorporation	Partnering Agreement
<ul style="list-style-type: none"> • The City would be the sole shareholder of the BHA; • The City, as sole shareholder, would appoint the Board and would have the authority to rescind such appointments; • Shareholder approval would be required to create or issue any additional BHA shares; • BHA would be prohibited from issuing shares to any other person or entity other than the shareholder (i.e., the City); • City approval would be required if the BHA wants to borrow on the security of the City (e.g. use the City's assets as collateral) or if the BHA requires the City to guarantee any borrowing; • BHA would be restricted from carrying out any business not related to the corporate purposes set out in the Articles; and • BHA would be restricted from disposing of corporate assets over a specified monetary threshold without the written approval of the shareholder; and • BHA would be limited to investing cash in excess of current operating requirements to the same investment opportunities as a local government, as per Section 183 of the <i>Community Charter</i>. 	<ul style="list-style-type: none"> • Council would be required to approve the BHA's strategic plan prior to the City's provision of financing for capital development; • At the end of the Partnering Agreement term, Council can review the BHA's provision of services prior to determining whether to renew or amend the Partnering Agreement and what ongoing level of assistance, if any, to provide to the BHA; • Should the City decide to dispose of City lands to the BHA, for example, by granting the BHA long-term leases, these ground leases will set out the terms and conditions pursuant to which the City will lease its lands to the BHA; and • Additional legal agreements (e.g. contribution agreements, loan agreements, etc.) will set out the specific terms and conditions upon which the City will provide or lend funds to the BHA.

Burnaby Housing Authority Corporation

(the “Company”)

ARTICLES

Interpretation

1. Interpretation

Company Shares

2. Shares and Share Certificates
3. Issue of Shares
4. Share Registers
5. Share Transfers
6. Acquisition of Company’s Shares

Company Borrowing

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9. Meetings of the Shareholder
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Directors & Officers

12. Directors
13. Appointment and Removal of Directors
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15. Powers and Duties of Directors
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20. Indemnification

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21. Dividends

General

22. Accounting Records and Auditors
23. Notices
24. Seal
25. Prohibitions
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1. Interpretation

1.1 Definitions

In these Articles, unless the context otherwise requires:

- (1) “**board of directors**”, “**directors**”, and “**board**” mean the directors of the Company for the time being;
- (2) “**Business Corporations Act**” means the *Business Corporations Act*, S.B.C. 2002, c. 57, as may be amended or replaced from time to time;
- (3) “**City Council**” means Council for the City of Burnaby;
- (4) “**City Council Director**” means a member of City Council who has been appointed by City Council to the board of directors;
- (5) “**City Directors**” means, collectively, the City Council Director and the City Staff Directors;
- (6) “**City of Burnaby**” means the City of Burnaby, British Columbia, a municipality incorporated under the *Community Charter* and having its principal office at 4949 Canada Way, Burnaby, B.C.;
- (7) “**City Staff Directors**” means staff persons employed by the City of Burnaby and who have been appointed by City Council to the board of directors;
- (8) “**Fiscal Year**” means December 31;
- (9) “**FOIPPA**” means the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165, as may be amended or replaced from time to time;
- (10) “**Independent Directors**” means the individuals who, in the opinion of the Shareholder:
 - (a) have the requisite skills, competencies and experience necessary to fulfill the obligations and powers of the Company;
 - (b) are independent of the Company and of the City of Burnaby, provided that a candidate for the position of director is sufficiently independent only if a reasonable person with knowledge of all the relevant circumstances would conclude that the director is independent of the management of the Company, of any significant security holder of the Company and of the City of Burnaby; and

- (c) have been appointed by City Council to the board of directors;
- (11) “**Inspector of Municipalities**” means the inspector of municipalities of British Columbia appointed, from time to time, under the *Local Government Act* (British Columbia);
- (12) “**Interpretation Act**” means the *Interpretation Act*, R.S.B.C. 1996, c. 238, as may be amended or replaced from time to time;
- (13) “**registered address**” of a shareholder means the shareholder’s address as recorded in the central securities register;
- (14) “**seal**” means the seal of the Company, if any;
- (15) “**Shareholder**” means the City of Burnaby as the sole shareholder of the Company;
- (16) “**Shareholder Representative**” means the member of City Council or staff member of the City of Burnaby who is appointed by the City Council to attend the annual general meetings and Shareholder’s meetings for the Company and who will act as the representative for the City of Burnaby and who will pass Shareholder Resolutions and do all other acts necessary for the City of Burnaby to carry out and exercise its rights as the Shareholder of the Company; and
- (17) “**Shareholder Resolution**” means a resolution passed by the Shareholder Representative or proxy appointed by the Shareholder and which is deemed to be a consent resolution.

1.2 ***Business Corporations Act and Interpretation Act Definitions Applicable***

The definitions in the *Business Corporations Act* and the definitions and rules of construction in the *Interpretation Act*, with the necessary changes, so far as applicable, and unless the context requires otherwise, apply to these Articles as if they were an enactment. If there is a conflict between a definition in the *Business Corporations Act* and a definition or rule in the *Interpretation Act* relating to a term used in these Articles, the definition in the *Business Corporations Act* will prevail in relation to the use of the term in these Articles. If there is a conflict or inconsistency between these Articles and the *Business Corporations Act*, the *Business Corporations Act* will prevail.

1.3 **Company Purposes**

The purposes of the Company are to engage in business activities related to the acquisition, development, construction, management and administration of land and housing in the City of Burnaby, including the following:

- (1) investing in, developing, marketing, acquiring, holding and disposing of lands and buildings for the purposes of providing non-market and market rental housing and non-market homeownership units, including co-operative housing, in the City of Burnaby, including developing non-residential real estate assets that are ancillary to housing;
- (2) securing funding, managing, operating, maintaining and carrying out other requirements for the Company as the developer and owner of housing units in conjunction with not-for-profits and other public and private organizations; and

- (3) administering housing operations and agreements and the Company's portfolio and other non-market housing on lands owned by the City of Burnaby.

2. Shares and Share Certificates

2.1 Authorized Share Structure

The authorized share structure of the Company consists of shares of the class or classes and series, if any, described in the Notice of Articles of the Company that are held by the Shareholder.

2.2 Form of Share Certificate

Each share certificate issued by the Company must comply with, and be signed as required by, the *Business Corporations Act*.

2.3 Shareholder Entitled to Certificate or Acknowledgment

Unless the shares of which the Shareholder is the registered owner are uncertificated shares within the meaning of the *Business Corporations Act*, the Shareholder is entitled, without charge, to (a) one share certificate representing the shares of each class or series of shares registered in the Shareholder's name or (b) a non-transferable written acknowledgment of the Shareholder's right to obtain such a share certificate.

2.4 Delivery by Mail

Any share certificate or non-transferable written acknowledgment of the Shareholder's right to obtain a share certificate may be sent to the Shareholder by mail at the Shareholder's registered address and neither the Company nor any director, officer, or agent of the Company is liable for any loss to the Shareholder because the share certificate or acknowledgement is lost in the mail or stolen.

2.5 Replacement of Worn Out or Defaced Certificate or Acknowledgement

If the directors are satisfied that a share certificate or a non-transferable written acknowledgment of the Shareholder's right to obtain a share certificate is worn out or defaced, they must, on production to them of the share certificate or acknowledgment, as the case may be, and on such other terms, if any, as they think fit:

- (1) order the share certificate or acknowledgment, as the case may be, to be cancelled; and
- (2) issue a replacement share certificate or acknowledgment, as the case may be.

2.6 Replacement of Lost, Destroyed, or Wrongfully Taken Certificate

If the Shareholder informs the Company in writing that the share certificate has been lost, destroyed, or wrongfully taken, the Company must issue a new share certificate, if the Shareholder:

- (1) requests a new share certificate; and
- (2) satisfies any other reasonable requirements imposed by the directors of the Company.

2.7 Certificate Fee

There must be paid to the Company, in relation to the issue of any share certificate under Articles 2.5 or 2.6, the amount, if any and which must not exceed the amount prescribed under the *Business Corporations Act*, determined by the directors.

2.8 Recognition of Trusts

Except as required by law or statute or these Articles, no person will be recognized by the Company as holding any share upon any trust, and the Company is not bound by or compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future, or partial interest in any share or fraction of a share or (except as required by law or statute or these Articles or as ordered by a court of competent jurisdiction) any other rights in respect of any share except an absolute right to the entirety thereof of the Shareholder.

3. Issue of Shares

3.1 Shareholder Authorized

Subject to the *Business Corporations Act* and the rights of the Shareholder of the Company, the Company may issue, allot, sell, or otherwise dispose of the unissued shares, and issued shares held by the Company, to the Shareholder, in the manner, on the terms and conditions and for the issue prices (including any premium at which shares with par value may be issued) that, pursuant to section 137 of the *Business Corporations Act*, the Shareholder may determine by an ordinary resolution. The issue price for a share with par value must be equal to or greater than the par value of the share.

3.2 Brokerage

The Company may pay such brokerage fee or other consideration as may be lawful for or in connection with the sale or placement of its securities.

3.3 Conditions of Issue

No shares in the Company may be issued:

- (1) to any person other than the Shareholder;
- (2) until the Shareholder has provided written confirmation to the Company that it has received the approval of the Inspector of Municipalities to acquire the shares in the Company; and
- (3) except as provided in the *Business Corporations Act*, until the Shareholder has fully paid for the shares.

3.4 Payment for Shares

Except as provided by the *Business Corporations Act*, no share may be issued until it is fully paid. A share is fully paid when:

- (1) consideration is provided to the Company for the issue of the share by one or more of the following:
 - (a) past services performed by the Company;

- (b) property;
- (c) money; and
- (d) the value of the consideration received by the Company equals or exceeds the issue price set for the share under Article 3.1.

3.5 Share Purchase Warrants and Rights

As required by and subject to the *Business Corporations Act*, the Company may issue share purchase warrants, options and rights upon such terms and conditions as the directors determine, which share purchase warrants, options and rights may be issued alone or in conjunction with debenture, debenture stock, bonds, shares or any other securities issued or created by the Company from time to time.

4. Share Registers

4.1 Central Securities Register

As required by and subject to the *Business Corporations Act*, the Company must maintain, in British Columbia, a central securities register. The directors may, subject to the *Business Corporations Act*, appoint an agent to maintain the central securities register. The directors may also appoint one or more agents, including the agent which keeps the central securities register, as transfer agent for its shares or any class or series of its shares, as the case may be, and the same or another agent as registrar for its shares or such class or series of its shares, as the case may be. The directors may terminate such appointment of any agent at any time and may appoint another agent in its place.

4.2 Closing Register

The Company must not at any time close its central securities register.

5. Share Transfers

5.1 Registering Transfers

A transfer of a share of the Company must not be registered unless:

- (1) a duly signed instrument of transfer in respect of the share has been received by the Company;
- (2) if a share certificate has been issued by the Company in respect of the share to be transferred, that share certificate has been surrendered to the Company; and
- (3) if a non-transferable written acknowledgement of a the Shareholder's right to obtain a share certificate has been issued by the Company in respect of the share to be transferred, that acknowledgement has been surrendered to the Company.

5.2 Form of Instrument Transfer

The instrument of transfer in respect of any share of the Company must be either in the form, if any, on the back of the Company's share certificates or in any other form that may be approved by the directors from time to time.

5.3 Transferor Remains Shareholder

Except to the extent that the *Business Corporations Act* otherwise provides, the transferor of shares is deemed to remain the holder of the shares until the name of the transferee is entered in a securities register of the Company in respect of the transfer.

5.4 Signing of Instrument of Transfer

If a shareholder, or his, her or their duly authorized attorney, signs an instrument of transfer in respect of shares registered in the name of the shareholder, the signed instrument of transfer constitutes a complete and sufficient authority to the Company and its directors, officers and agents to register the number of shares specified in the instrument of transfer or specified in any other manner, or, if no number is specified, all the shares represented by the share certificates or set out in the written acknowledgement deposited with the instrument of transfer:

- (1) in the name of the person named as transferee in that instrument of transfer; or
- (2) if no person is named as transferee in that instrument of transfer, in the name of the person on whose behalf the instrument is deposited for the purpose of having the transfer registered.

5.5 Enquiry as to Title Not Required

Neither the Company nor any director, officer or agent of the Company is bound to inquire into the title of the person named in the instrument of transfer as transferee or, if no person is named as transferee in the instrument of transfer, of the person on whose behalf the instrument is deposited for the purpose of having the transfer registered or is liable for any claim related to registering the transfer by the shareholder or by any intermediate owner or holder of the shares, or any interest in the shares of any share certificate representing such shares or any written acknowledgement of a right to obtain a share certificate for such shares.

5.6 Transfer Fee

There must be paid to the Company in relation to the registration of any transfer, the amount, if any, determined by the directors.

6. Acquisition of Company's Shares

6.1 Company Authorized to Purchase or Otherwise Acquire Shares

Subject to Article 6.2, the special rights or restrictions attached to the shares of any class or series of shares and the *Business Corporations Act*, the Company may, if authorized by the directors, purchase or otherwise acquire any of its shares at the price and upon the terms determined by the directors.

6.2 No Purchase, Redemption, or Other Acquisition When Insolvent

The Company must not make a payment or provide any other consideration to purchase, redeem, or otherwise acquire any of its shares if there are reasonable grounds for believing that:

- (1) the Company is insolvent; or
- (2) making the payment or providing the consideration would render the Company insolvent.

6.3 Sale and Voting of Purchased, Redeemed, or Otherwise Acquired Shares

If the Company retains a share redeemed, purchased, or otherwise acquired by it, the Company may sell or gift the share to the Shareholder or dispose of the share, but, while such share is held by the Company, it:

- (1) is not entitled to vote the share at a meeting of its Shareholder;
- (2) must not pay a dividend in respect of the share; and
- (3) must not make any other distribution in respect of the share.

7. Borrowing Powers

7.1 Borrowing Powers of the Company

The Company, if authorized by the directors, may:

- (1) borrow money in the manner and amount from the sources, and on the terms and conditions that the directors consider appropriate;
- (2) issue bonds, debentures, and other debt obligations for any liability or obligation of the Company or any other person and at such discounts or premiums and on such other terms as the directors consider appropriate;
- (3) guarantee the repayment of money by any other person or the performance of any obligation of any other person; and
- (4) mortgage, charge, whether by way of specific or floating charge, grant of a security interest in, or giving other security on, the whole or any part of the present and future assets and undertaking of the Company as collateral for any borrowing,

provided that:

- (5) the Company is restricted from exercising the power to borrow money on the security of the City of Burnaby unless the Shareholder approves such borrowing by ordinary resolution provided that the Company is not restricted from exercising the power to borrow on the security of its assets and business; and
- (6) the Company is restricted from exercising the power to borrow money that would require the City of Burnaby to guarantee such borrowing, unless the Shareholder approves such borrowing by ordinary resolution.

8. Alterations

8.1 Alteration of Authorized Share Structure

Subject to Article 8.2 and the *Business Corporations Act*, the Company may by special resolution:

- (1) create one or more classes or series of shares or, if none of the shares of a class or series of shares are allotted or issued, eliminate that class or series of shares;
- (2) increase, reduce, or eliminate the maximum number of shares that the Company is authorized to issue out of any class or series of shares or establish a maximum number of shares that the Company is authorized to issue out of any class or series of shares for which no maximum is established;
- (3) subdivide or consolidate all or any of its unissued, or fully paid and issued, shares;
- (4) if the Company is authorized to issue shares of a class of shares with par value:
 - (a) decrease the par value of those shares; or
 - (b) if none of the shares of that class of shares are allotted or issued, increase the par value of those shares;
- (5) change all or any of its unissued, or fully paid and issued, shares with par value into shares without par value or any of its unissued shares without par value into shares with par value;
- (6) alter the identifying name of any of its shares; or
- (7) otherwise alter its shares or authorized share structure when required or permitted to do so by the *Business Corporations Act*,

and, if applicable, alter its Notice of Articles and, if applicable, its Articles, accordingly.

8.2 Special Rights or Restrictions

Subject to the *Business Corporations Act*, the Company may by special resolution:

- (1) create special rights or restrictions for, and attach those special rights or restrictions to, the shares of any class or series of shares, whether or not any or all of those shares have been issued; or
- (2) vary or delete any special rights or restrictions attached to the shares of any class or series of shares, whether or not any or all of those shares have been issued,

and alter its Articles and Notice of Articles accordingly.

8.3 Change of Name

The Company may by Shareholder Resolution authorize an alteration to its Notice of Articles in order to change its name and may, by Shareholder Resolution or directors' resolution, adopt or change any translation of that name.

8.4 Other Alterations

If the *Business Corporations Act* does not specify the type of resolution and these Articles do not specify another type of resolution, the Company may by special resolution alter these Articles.

8.5 Consent to Alterations

Notwithstanding the other provisions of these Articles, including without limitation Article 8.4, for so long as the City of Burnaby is a Shareholder of the Company, the Company will not alter or amend a provision of these Articles that was required by the Inspector of Municipalities in any way without the prior written consent of the Inspector of Municipalities.

9. Meetings of Shareholder

9.1 Annual General Meetings

Unless an annual general meeting is deferred or waived in accordance with the *Business Corporations Act*, the Company must hold its first annual general meeting within 18 months after the date on which it was incorporated or otherwise recognized, and after that must hold an annual general meeting at least once in each calendar year and not more than 15 months after the last annual reference date at such time and place as may be determined by the directors.

9.2 Resolution Instead of Annual General Meeting

If the Shareholder consents by Shareholder Resolution to all of the business that is required to be transacted at that annual general meeting, the annual general meeting is deemed to have been held on the date of the Shareholder Resolution and where applicable in these Articles references to an annual general meeting will be read *mutatis mutandis* as being reference to the Shareholder Resolution adopted in lieu of such meeting. The Shareholder must, in any Shareholder Resolution passed under this Article 9.2, select as the Company's annual reference date a date that would be appropriate for the holding of the applicable annual general meeting.

9.3 Calling of Meetings of the Shareholder

The directors may, at any time, call a meeting of the Shareholder to be held at such time and place as may be determined by the directors.

9.4 Notice for Meetings of the Shareholder

The Company must send notice of the date, time, and location of any meeting of the Shareholder (including, without limitation, any notice specifying the intention to propose a resolution as an exceptional resolution, a special resolution, or a special separate resolution and any notice to consider approving an amalgamation into a foreign jurisdiction, an arrangement, or the adoption of an amalgamation agreement, and any notice of a general meeting, class meeting, or series meeting), in the manner provided in these Articles, or in such other manner, if any, as may be prescribed by ordinary resolution (whether previous notice of the resolution has been given or not), to the Shareholder, to each director, and to the auditor of the Company, unless these Articles otherwise provide, at least 60 days before the meeting.

9.5 Notice of Resolution to Which Shareholder May Dissent

The Company must send to the Shareholder a notice of any meeting of the Shareholder at which a resolution entitling the Shareholder to dissent is to be considered specifying the date of the meeting and containing a statement advising of the right to send a notice of dissent together with a copy of the proposed resolution at least 60 days before the meeting.

9.6 Record Date for Notice

The record date is 5:00 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

9.7 Record Date for Voting

The record date is 5:00 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

9.8 Failure to Give Notice

The omission to send notice of a meeting of the Shareholder will invalidate any proceedings at that meeting.

9.9 Meetings by Telephone or Communications Medium

The directors may determine that a meeting of the Shareholder shall be held entirely by means of telephonic, electronic, or other communication facilities that permit all participants to communicate with each other during the meeting. A meeting of the Shareholder may also be held at which some, but not necessarily all, persons entitled to attend may participate by means of such communication facilities, if the directors determine to make them available. A person who participates in a meeting in a manner contemplated by this Article 9.9 is deemed for all purposes of the *Business Corporations Act* and these Articles to be present at the meeting.

9.10 Notice of Special Business at Meetings of the Shareholder

If a meeting of the Shareholder is to consider special business within the meaning of Article 10.1, the notice of meeting must:

- (1) state the general nature of the special business; and
- (2) if the special business includes considering, approving, ratifying, adopting, or authorizing any document or the signing of or giving of effect to any document, have attached to it a copy of the document or state that a copy of the document will be available for inspection by the Shareholder through its Shareholder Representative:
 - (a) at the Company's records office, or at such other reasonably accessible location in British Columbia as is specified in the notice; and
 - (b) during statutory business hours on any one or more specified days before the day set for the holding of the meeting.

10. Proceedings at Meetings of the Shareholder

10.1 Special Business

At a meeting of the Shareholder, the following business is special business:

- (1) at a meeting of the Shareholder that is not an annual general meeting, all business is special business except business relating to the conduct of or voting at the meeting;
- (2) at an annual general meeting, all business is special business except for the following:
 - (a) business relating to the conduct of or voting at the meeting;
 - (b) consideration of any financial statements of the Company presented to the meeting;
 - (c) consideration of any reports of the directors or auditor;
 - (d) the setting or changing of the number of directors;
 - (e) the appointment of directors;
 - (f) the appointment of an auditor;
 - (g) the setting of the remuneration of an auditor;
 - (h) business arising out of a report of the directors not requiring the passing of a special resolution or an exceptional resolution; and
 - (i) any other business which, under these Articles or the *Business Corporations Act*, may be transacted at a meeting of the Shareholder without prior notice of the business being given to the Shareholder.

10.2 Special Resolution

The vote of the Shareholder Representative is the only vote required for the Company to pass a special resolution at a general meeting of the Shareholder.

10.3 Quorum

The quorum for the transaction of business at a meeting of the Shareholder is the attendance of the Shareholder Representative, or a proxy appointed by the Shareholder to vote at the meeting.

10.4 Persons Entitled to Attend Meeting

In addition to those persons who are entitled to vote at a meeting of the Shareholder, the only other persons entitled to be present at the meeting are the directors, the chief executive officer (if any), the president (if any), the secretary (if any), the assistant secretary (if any), any lawyer for the Company, the auditor of the Company, any persons invited to be present at the meeting by the directors or by the chair of the meeting, and any persons entitled or required under the *Business Corporations Act* or these Articles to be present at the meeting; but if any of those persons do attend the meeting, those persons are not to be counted in the

quorum and are not entitled to vote at the meeting unless such person is a proxy appointed by the Shareholder to vote at the meeting.

10.5 Requirement of Quorum

No business other than the adjournment of the meeting, may be transacted at any meeting of the Shareholder without quorum.

10.6 Lack of Quorum

If, within one-half hour from the time set for the holding of a meeting of the Shareholder, a quorum is not present:

- (1) in the case of a general meeting requisitioned by the Shareholder, the meeting is dissolved; and
- (2) in the case of any other meeting of the Shareholder, the meeting stands adjourned to the same day in the next week at the same time and place.

10.7 Chair

The following individual is entitled to preside as chair at a meeting of the Shareholder:

- (1) the chair of the board elected pursuant to Article 17.3; or
- (2) if the chair of the board is absent or unwilling to act as chair of the meeting, the director chosen pursuant to Article 17.3(2).

10.8 Selection of Alternate Chair

If, at any meeting of the Shareholder, there is no chair of the board or president present within 15 minutes after the time set for holding the meeting, or if the chair of the board and the president are unwilling to act as chair of the meeting, or if the chair of the board and the president have advised the secretary, if any, or any director present at the meeting, that they will not be present at the meeting, the directors present must choose one of their number to be chair of the meeting or if all of the directors present decline to take the chair or fail to so choose or if no director is present, the Shareholder Representative or by proxy may choose any person present at the meeting to chair the meeting.

10.9 Adjournments

The chair of a meeting of the Shareholder may, and if so directed by the meeting must, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

10.10 Notice of Adjourned Meeting

It is not necessary to give any notice of an adjourned meeting of the Shareholder or of the business to be transacted at an adjourned meeting of the Shareholder.

10.11 Decisions by Declaration

Subject to the *Business Corporations Act*, every motion put to a vote at a meeting of the Shareholder will be decided on the declaration of the Shareholder Representative or the proxy.

10.12 Declaration of Result

The chair of a meeting of the Shareholder must declare to the meeting the decision on every question in accordance with the declaration of the Shareholder Representative or the proxy, as the case may be, and that decision must be entered in the minutes of the meeting. A declaration of the chair that a resolution is carried or is defeated is conclusive evidence in favour of or against the resolution.

10.13 Motion Need Not be Seconded

No motion proposed at a meeting of the Shareholder needs to be seconded.

11. Voting

11.1 Vote of the Shareholder

The Shareholder will vote at the meetings of the Shareholder through its Shareholder Representative.

11.2 Appointment of Proxy

Where the Shareholder Representative is unavailable to attend a meeting of the Shareholder, the Shareholder may appoint a councillor or staff member of the City of Burnaby to act as its proxy holder to attend and act at the meeting in the manner, to the extent and with the powers conferred by the proxy.

11.3 Alternate Proxy Holders

The Shareholder may appoint one or more alternate proxy holders to act in the place of an absent proxy holder.

11.4 Deposit of Proxy

A proxy for a meeting of the Shareholder must:

- (1) be received at the registered office of the Company or at any other place specified, in the notice calling the meeting, for the receipt of proxies, at least the number of business days specified in the notice, or if no number of days is specified, two business days before the day set for the holding of the meeting or any adjourned meeting; or
- (2) unless the notice provides otherwise, be received at the meeting or any adjourned meeting, by the chair of the meeting or adjourned meeting or by a person designated by the chair of the meeting or adjourned meeting.

A proxy may be sent to the Company by written instrument, email, fax, or any other method of transmitting legibly recorded messages.


11.5 Form of Proxy

A proxy, whether for a specified meeting or otherwise, must be either in the following form or in any other form approved by the directors or the chair of the meeting:

Burnaby Housing Authority Corporation
(the “Company”)

City of Burnaby, being the sole shareholder of the Company, hereby appoints *[name]* or, failing that person, *[name]*, as proxy holder for the undersigned to attend, act, and vote for and on behalf of the undersigned at the meeting of the shareholder of the Company to be held on *[month, day, year]* and at any adjournment of that meeting.

Signed *[month, day, year]*



[Signature of shareholder]

[Name of shareholder—printed]

11.6 Revocation of Proxy

Subject to Article 11.7, every proxy may be revoked by an instrument in writing that is received:

- (1) at the registered office of the Company at any time up to and including the last business day before the day set for the holding of the meeting or any adjourned meeting at which the proxy is to be used; or
- (2) at the meeting or any adjourned meeting by the chair of the meeting or adjourned meeting, before any vote in respect of which the proxy has been given has been taken.

11.7 Revocation of Proxy Must Be Signed

An instrument referred to in Article 11.6 must be signed by the Shareholder Representative.

11.8 Production of Evidence of Authority to Vote

The chair of any meeting of Shareholder may, but need not, inquire into the authority of any person to vote at the meeting and may, but need not, demand from that person production of evidence as to the existence of the authority to vote.

12. Directors

12.1 First Directors

The first directors are the persons designated as directors of the Company in the Notice of Articles that applies to the Company when it is recognized under the *Business Corporations Act*. The Shareholder may, pursuant to and in accordance with Article 12.3, fill any openings in the board of directors, on an interim basis, for

the time period between the time the first directors are designated as directors of the Company in the Notice of Articles that applies to the Company when it is recognized under the *Business Corporations Act* and the first annual general meeting of the Company, provided that any such interim director(s) will cease to hold office immediately before the appointment of directors at the first annual general meeting, as contemplated in Article 13.1(2).

12.2 Number of Directors

The number of directors is set at a total of ten (10) directors comprised as follows:

- (1) four (4) City Directors, comprised of one (1) City Staff Director and three (3) City Council Directors; and
- (2) six (6) Independent Directors,
all as City Council may determine at its sole discretion.

12.3 Change in Number of Directors

The Shareholder may appoint the directors needed to fill any vacancies in the board of directors up to the total number of directors set out in Article 12.2 and provided such directors meet the qualifications set out in Article 12.5. The term of office for a director appointed to fill a vacancy will be the remaining term of office, determined immediately prior to the occurrence of the vacancy, of the director whose departure created the subject vacancy.

12.4 Directors' Acts Valid Despite Vacancy

An act or proceeding of the directors is not invalid merely because fewer than the number of directors set or otherwise required under these Articles is in office.

12.5 Qualifications of Directors

A director is not required to hold a share of the Company as qualification for their office but must be qualified as required by the *Business Corporations Act* to become, act, or continue to act as a director.

For the City Staff Director to act as a director of the Company they must:

- (1) be a current employee of the City of Burnaby with permanent or full-time employment status; and
- (2) resign from the board of directors when their employment with the City of Burnaby ceases or is terminated, unless authorized by the Shareholder to remain as a director of the Company through a written confirmation provided by the Shareholder Representative to the Company.

For the City Council Directors to act as directors of the Company they must:

- (1) have been appointed and be serving as a member of City Council at the time of their appointment to the board of directors; and

- (2) resign from the board of directors when they cease to be a member of City Council, unless authorized by the Shareholder to remain as a director of the Company through a written confirmation provided by the Shareholder Representative to the Company.

For the Independent Directors to act as directors of the Company they must:

- (1) have worked in an executive, managerial, business development, legal, project management, governmental relations, business analyst, procurement, operations, financial services or such other professional role as may be viewed as beneficial to the management of the Company by the Shareholder, in the land development, construction, housing operations, housing administration and/or non-market and market housing industries.

12.6 Remuneration of Independent Directors

The Independent Directors are entitled to the remuneration for acting as directors, if any, as the Shareholder may from time to time determine. No other class of directors are entitled to remuneration for acting as directors for the Company.

12.7 Reimbursement of Expenses of Directors

The Company must reimburse each director for the reasonable expenses that such director may incur in and about the business of the Company.

12.8 Special Remuneration for Directors

If any director performs any professional or other services for the Company that in the opinion of the directors are outside the ordinary duties of a director, or if any director is otherwise specially occupied in or about the Company's business, the director may be paid remuneration fixed by the directors, or, at the option of the directors, fixed by ordinary resolution, and such remuneration may be either in addition to, or in substitution for, any other remuneration that the director may be entitled to receive.

13. Appointment and Removal of Directors

13.1 Appointment at Annual General Meeting

At every annual general meeting and in every Shareholder Resolution contemplated by Article 9.2:

- (1) the Shareholder, through its City Council, will appoint a board of directors consisting of the number and composition of directors for the time being set under these Articles at each and every annual general meeting; and
- (2) at the annual general meeting to be held in the calendar year 2024:
 - (a) all the directors cease to hold office immediately before the appointment of directors under paragraph (1) but are eligible for re-appointment;
 - (b) four (4) City Directors and one (1) Independent Director will be appointed for a term ending immediately prior to the appointment of directors at that annual general meeting that is the third annual general meeting of the Company required to be held following the annual general meeting to be held in the calendar year 2024; and

(c) five (5) Independent Directors will be appointed for a term ending immediately prior to the appointment of directors at that annual general meeting that is the second annual general meeting of the Company required to be held following the annual general meeting to be held in the calendar year 2024; and

(3) At every succeeding annual general meeting:

(a) those directors whose term in office is set to expire on the occasion of such meeting will cease to hold office immediately before the appointment of directors under paragraph (1), but are eligible for re-appointment; and

(b) all such directors will be appointed to term ending immediately prior to the appointment of directors at that annual general meeting that is the third annual general meeting of the Company required to be held following the annual general meeting at which they were most recently appointed.

13.2 Term Limits

No director may be re-appointed to the board of directors after they have completed their sixth (6th) consecutive year on the board of directors, provided that a former director may be re-appointed to the board of directors after an absence from the board of directors of at least one year.

13.3 Consent to be a Director

No appointment of an individual as a director is valid unless:

(1) that individual consents to be a director in the manner provided for in the *Business Corporations Act*;

(2) that individual is appointed at a meeting at which the individual is present, in person or present for the purposes of a meeting held under Article 17.5 by telephone, electronic, or other communication facilities and the individual does not refuse, at such meeting, to be a director; or

(3) with respect to first directors, the designation is otherwise valid under the *Business Corporations Act*.

13.4 Failure to Appoint Directors

If:

(1) the Company fails to hold an annual general meeting; and

(2) the Shareholder through its Shareholder Representative fails to pass the Shareholder Resolution contemplated by Article 9.2, on or before the date by which the annual general meeting is required to be held under the *Business Corporations Act* to appoint any directors,

then each director then in office continues to hold office until the earlier of:

(1) when the director's respective successor is appointed; or

- (2) when the director otherwise ceases to hold office under the *Business Corporations Act* or these Articles.

13.5 Places of Retiring Directors Not Filled

If, at any meeting of the Shareholder at which there should be an appointment of directors, the places of any of the retiring directors are not filled by that appointment, those retiring directors who are not re-appointed and who are asked by the newly appointed directors to continue in office will, if willing to do so, continue in office to complete the number of directors for the time being set pursuant to these Articles until further new directors are appointed at a meeting of the Shareholder convened for that purpose. If any such appointment or continuance of directors does not result in the appointment or continuance of the number of directors for the time being set pursuant to these Articles, the number and composition of directors of the Company is deemed to be set at the number of directors actually appointed or continued in office.

13.6 Remaining Directors' Power to Act

The directors may act notwithstanding any vacancy in the board of directors, but if the Company has fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the directors may only act for the purpose of appointing directors up to that number or of calling a meeting of the Shareholder for the purpose of filling any vacancies on the board of directors or, subject to the *Business Corporations Act*, for any other purpose.

13.7 Shareholder May Fill Vacancies

If the Company has no directors or fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the Shareholder, through its Shareholder Representative, may appoint directors to fill any vacancies on the board of directors.

13.8 Ceasing to be a Director

A director ceases to be a director when:

- (1) the term of office of the director expires;
- (2) the director dies;
- (3) the director resigns as a director by notice in writing provided to the Company or a lawyer for the Company; or
- (4) the director is removed from office pursuant to Articles 13.9 or 13.10.

13.9 Removal of Director by the Shareholder

The Company may remove any director before the expiration of that director's term of office by special resolution. In that event, the Shareholder, through its Shareholder Representative, will appoint by Shareholder Resolution, a director to fill the resulting vacancy.

13.10 Removal of Director by Directors

The directors may remove any director before the expiration of that director's term of office if the director is convicted of an indictable offence, or if the director ceases to be qualified to act as a director of a company

and does not promptly resign, and the Shareholder, through its Shareholder Representative, will appoint by Shareholder Resolution, a director to fill the resulting vacancy.

14. Alternate Directors

14.1 Appointment of Alternate Director

Any director, with the written permission of the Shareholder granted through its Shareholder Representative, may appoint an individual approved by the Shareholder that is qualified to act as a director under the *Business Corporations Act* and:

- (1) if being appointed by a City Staff Director, is qualified as a City Staff Director under Article 12.5;
- (2) if being appointed by a City Council Director, is qualified as a City Council Director under Article 12.5; or
- (3) if being appointed by an Independent Director, is qualified as an Independent Director under Article 12.5,

to be their alternate to act in their place at meetings of the directors or committees of the directors at which the appointor is not present unless (in the case of an appointee who is not a director) the directors have reasonably disapproved the appointment of such person as an alternate director and have given notice to that effect to the appointor within a reasonable time after the notice of appointment is received by the Company.

14.2 Notice of Meetings

Every alternate director so appointed is entitled to notice of meetings of the directors and of committees of the directors of which the alternate director's appointor is a member and to attend and vote as a director at any such meetings at which their appointor is not present.

14.3 Consent Resolutions

Every alternate director, if authorized by the notice appointing them, may sign in place of their appointor any resolutions to be consented to in writing.

14.4 Alternate Director Not an Agent

Every alternate director is deemed not to be the agent of their appointor.

14.5 Revocation of Appointment of Alternate Director

An appointor may at any time, by notice in writing received by the Company, revoke the appointment of an alternate director appointed by them.

14.6 Ceasing to be an Alternate Director

The appointment of an alternate director ceases when:

- (1) their appointor ceases to be a director and is not promptly re-appointed;

- (2) the alternate director dies;
- (3) the alternate director resigns as an alternate director by notice in writing provided to the Company or a lawyer for the Company;
- (4) the alternate director ceases to be qualified to act as a director; or
- (5) their appointor revokes the appointment of the alternate director.

14.7 Remuneration and Expenses of Alternate Director

The Company may reimburse an alternate director for the reasonable expenses that would be properly reimbursed if they were a director, and the alternate director is entitled to receive from the Company such proportion, if any, of the remuneration otherwise payable to the appointor as the appointor may from time to time direct.

15. Powers and Duties of Directors

15.1 Powers of Management

The directors must, subject to the *Business Corporations Act* and these Articles, manage or supervise the management of the business and affairs of the Company and have the authority to exercise all such powers of the Company as are not, by the *Business Corporations Act* or by these Articles, required to be exercised by the Shareholder.

15.2 Appointment of Attorney of Company

The directors may from time to time, by power of attorney or other instrument, under seal if so required by law, appoint any person to be the attorney of the Company for such purposes, and with such powers, authorities, and discretions (not exceeding those vested in or exercisable by the directors under these Articles and excepting the power to fill vacancies in the board of directors, to remove a director, to change the membership of, or fill vacancies in, any committee of the directors, to appoint or remove officers appointed by the directors, and to declare dividends) and for such period, and with such remuneration and subject to such conditions as the directors may think fit. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorney as the directors think fit. Any such attorney may be authorized by the directors to sub-delegate all or any of the powers, authorities, and discretions for the time being vested in the attorney.

16. Conflicts of Interest of Directors

16.1. Scope of Conflict Provisions

This Article 16 applies to directors in relation to meetings of the Company's board of directors, meetings of committees of the Company's board of directors, and resolutions in writing of the Company's board of directors.

16.2 Disclosure of Interest

If a director attending a meeting of the board of directors, a committee meeting or considering a resolution in writing considers that he, she or they is not entitled to and must not:

- (1) participate in the discussion of a matter; or
- (2) vote on or otherwise approve a resolution in respect of a matter,

because the director has a direct or indirect pecuniary interest in the matter, or for any other reason, and the director must declare this to the other directors and state the general nature of why the director considers this to be the case.

16.3 Consequence of Disclosure of Interest

After making a declaration on the basis described in Article 16.2 a director must:

- (1) not take part in the discussion of the matter and is not entitled to vote on or otherwise approve any question in respect of the matter;
- (2) leave the meeting or that part of the meeting during which the matter in question is under consideration; and
- (3) not attempt, whether before, during or after the matter is considered by the other directors, to influence the directors' decisions on any question in respect of the matter, provided that the director making the declaration must, to the extent he, she or they is able and in a timely manner, inform the remaining directors of any risks to the Company associated with the matter in question to the extent necessary to fulfil his, her or their duties to the Company.

16.4 Record of Disclosure

If a declaration is made by a director pursuant to Article 16.2, the chair of the board or other person who presided as chair at the meeting will ensure that the minutes of the meeting record in writing the substance of the declaration and the fact that the director making the declaration was not present for that part of the meeting during which the matter in question was under consideration.

16.5 Prohibitions

Whether or not disclosure is made under Article 16.2, if a director has a direct or indirect pecuniary interest in a matter the director must not:

- (1) participate in the discussion of a matter;
- (2) vote on or otherwise approve a resolution in respect of a matter; or
- (3) attempt in any way, whether before, during or after the matter is considered by the other directors, to influence the directors' decisions on any question in respect of the matter, provided that the interested director must, to the extent he, she or they is able and in a timely manner, inform the remaining directors of any risks to the Company associated with the matter in question to the extent necessary to fulfil his or her duties to the Company.

16.6 Exceptions to Conflict Provisions

Article 16.5 does not apply if:

- (1) the pecuniary interest of the director is a pecuniary interest in common with the residents of the City of Burnaby, generally;

- (2) the matter relates to remuneration or expenses payable to one or more directors in relation to their duties as directors; or
- (3) the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the director in relation to the matter.

16.7 Duty to Account and Disqualification

A person who contravenes Article 16.5 is, in addition to any consequences that may arise under the provisions of the *Business Corporations Act*, disqualified from continuing to hold office as a director of the Company unless the contravention was due to reasonable inadvertence or an error in judgment made in good faith.

16.8 Interested Director Counted in Quorum

Notwithstanding that, by operation of this Article 16, a director is prohibited from participating in the discussion of a matter or voting on or otherwise approving a resolution in respect of a matter, a director may be counted for the purpose of determining whether a quorum of directors is present for the transaction of business at any meeting of the Company's board of directors or a committee of the Company's board of directors.

16.9 No Disqualification

No director of the Company is disqualified from his, her or their office from contracting with the Company as vendor, purchaser or otherwise, and no contract or transaction entered into by or on behalf of the Company in which a director is in any way interested is liable to be voided for the reason that the director has an interest.

16.10 Obligation to Account for Profits

A director or senior officer who holds a disclosable interest (as that term is used in the *Business Corporations Act*) in a contract or transaction into which the Company has entered or proposes to enter is liable to account to the Company for any profit that accrues to the director or senior officer under or as a result of the contract or transaction only if and to the extent provided in the *Business Corporations Act*.

16.11 Professional Services by Director or Officer

Subject to the *Business Corporations Act*, a director or officer, or any person in which a director or officer has an interest, may act in a professional capacity for the Company, except as auditor of the Company, and the director or officer or such person is entitled to remuneration for professional services as if that director or officer were not a director or officer.

16.12 Director or Officer in Other Corporations

A director or officer may be or become a director, officer, or employee of, or otherwise interested in, any person in which the Company may be interested as a shareholder or otherwise, and, subject to the *Business Corporations Act*, the director or officer is not accountable to the Company for any remuneration or other benefits received by them as director, officer, or employee of, or from their interest in, such other person.

17. Proceedings of Directors

17.1 Meetings of Directors

The directors may meet together for the conduct of business and adjourn and otherwise regulate their meetings as they think fit, and meetings of the directors held at regular intervals may be held at the place, at the time, and on the notice, if any, as the directors may from time to time determine. Without limiting the generality of this Article 17.1, the directors may, from time to time, invite any persons to be present at a meeting of the directors, including without limitation the chief executive officer (if any), the president (if any), the secretary (if any), the assistant secretary (if any), any lawyer for the Company, the auditor of the Company, a City representative and any other persons invited to be present at the meeting by the directors or by the chair of the meeting.

17.2 Voting at Meetings

Questions arising at any meeting of directors are to be decided by a majority of votes and, in the case of an equality of votes, the chair of the meeting does not have a second or casting vote.

17.3 Chair of the Board

At the first meeting of the board held after an annual general meeting, the board shall elect from among the Independent Directors, a chair who shall hold office until the first meeting of the board held after the annual general meeting after their election as chair.

17.4 Chair of Meetings

The following individual is entitled to preside as chair at a meeting of directors:

- (1) the chair of the board elected pursuant to Article 17.3; or
- (2) any other director chosen by the directors if:
 - (a) the chair of the board is not present at the meeting within 15 minutes after the time set for holding the meeting;
 - (b) the chair of the board is not willing to chair the meeting; or
 - (c) the chair of the board has advised the secretary, if any, or any other director, that they will not be present at the meeting.

17.5 Meetings by Telephone or Other Communications Medium

A director may participate in a meeting of the directors or of any committee of the directors by means of telephone, electronic, or other communication facilities that permit all participants to communicate with each other during the meeting. A meeting of the directors may also be held at which some, but not necessarily all, persons entitled to attend may participate by means of such communications facilities. A director who participates in a meeting in a manner contemplated by this Article 17.5 is deemed for all purposes of the *Business Corporations Act* and these Articles to be present at the meeting.

17.6 Calling of Meetings

A director may, and the secretary or an assistant secretary of the Company, if any, on the request of a director must, call a meeting of the directors at any time.

17.7 Notice of Meetings

Other than for meetings held at regular intervals as determined by the directors pursuant to Article 17.1 or as provided in Article 17.8, reasonable notice of each meeting of the directors, specifying the place, day, and time of that meeting, must be given to each of the directors and the alternate directors by any method set out in Article 23.1 or orally or by telephone.

17.8 When Notice Not Required

It is not necessary to give notice of a meeting of the directors to a director or an alternate director if:

- (1) the meeting is to be held immediately following a meeting of the Shareholder at which that director was appointed, or is the meeting of the directors at which that director is appointed; or
- (2) the director or alternate director, as the case may be, has waived notice of the meeting.

17.9 Meeting Valid Despite Failure to Give Notice

The accidental omission to give notice of any meeting of directors to, or the non-receipt of any notice by, any director or alternate director, does not invalidate any proceedings at that meeting.

17.10 Waiver of Notice of Meetings

Any director or alternate director may send to the Company a signed document waiving notice of any past, present, or future meeting or meetings of the directors and may at any time withdraw that waiver with respect to meetings held after that withdrawal. After sending a waiver with respect to all future meetings and until that waiver is withdrawn, no notice of any meeting of the directors need be given to that director or, unless the director otherwise requires by notice in writing to the Company, to that director's alternate director, and all meetings of the directors so held are deemed not to be improperly called or constituted by reason of notice not having been given to such director or alternate director. Attendance of a director or alternate director at a meeting of the directors is a waiver of notice of the meeting unless that director or alternate director attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

17.11 Quorum

The quorum necessary for the transaction of the business of the directors may be set by the directors and, if not so set, is deemed to be set at a majority of the directors, provided that in either case at least one (1) City Director and one (1) Independent Director is present.

17.12 Validity of Acts Where Appointment Defective

Subject to the *Business Corporations Act*, an act of a director or officer is not invalid merely because of an irregularity in the appointment or a defect in the qualification of that director or officer.

17.13 Consent Resolutions in Writing

A resolution of the directors or of any committee of the directors may be passed without a meeting:

- (1) in all cases, if each of the directors entitled to vote on the resolution consents to it in writing; or
- (2) in the case of a resolution to approve a contract or transaction in respect of which a director has disclosed that they have or may have a disclosable interest, if each of the other directors who have not made such a disclosure consents in writing to the resolution.

A consent in writing under this Article 17.13 may be by any written instrument, fax, email, or any other method of transmitting legibly recorded messages in which the consent of the director is evidenced, whether or not the signature of the director is included in the record. A consent in writing may be in two or more counterparts which together are deemed to constitute one consent in writing. A resolution of the directors or of any committee of the directors passed in accordance with this Article 17.13 is effective on the date stated in the consent in writing or on the latest date stated on any counterpart and is deemed to be a proceeding at a meeting of the directors or of the committee of the directors and to be as valid and effective as if it had been passed at a meeting of the directors or of the committee of the directors that satisfies all the requirements of the *Business Corporations Act* and all the requirements of these Articles relating to meetings of the directors or of a committee of the directors.

18. Executive and Other Committees

18.1 Appointment and Powers of Executive Committee

The directors may, by resolution, appoint an executive committee consisting of the director or directors that they consider appropriate, provided that the Executive Committee includes at least one (1) City Director, and during the intervals between meetings of the board of directors all of the directors' powers are delegated to the executive committee, except:

- (1) the power to fill vacancies in the board of directors;
- (2) the power to remove a director;
- (3) the power to change the membership of, or fill vacancies in, any committee of the directors; and
- (4) such other powers, if any, as may be set out in the resolution or any subsequent directors' resolution.

18.2 Appointment and Powers of Other Committees

The directors may, by resolution:

- (1) appoint one or more committees (other than the executive committee) consisting of the director or directors and such other persons that they consider appropriate, provided that at least one Director is appointed to each of such committees;
- (2) delegate to a committee appointed under paragraph (1) any of the directors' powers, except:
 - (a) the power to fill vacancies in the board of directors;
 - (b) the power to remove a director;

- (c) the power to change the membership of, or fill vacancies in, any committee of the directors; and
 - (d) the power to appoint or remove officers appointed by the directors; and
- (3) make any delegation referred to in paragraph (2) subject to the conditions set out in the resolution or any subsequent directors' resolution.

18.3 Obligations of Committees

Any committee appointed under Articles 18.1 or 18.2, in the exercise of the powers delegated to it, must:

- (1) conform to any rules that may from time to time be imposed on it by the directors; and
- (2) report every act or thing done in exercise of those powers at such times as the directors may require.

18.4 Powers of Board

The directors may, at any time, with respect to a committee appointed under Articles 18.1 or 18.2:

- (1) revoke or alter the authority given to the committee, or override a decision made by the committee, except as to acts done before such revocation, alteration, or overriding;
- (2) terminate the appointment of, or change the membership of, the committee; and
- (3) fill vacancies in the committee.

18.5 Committee Meetings

Subject to Article 18.3(1) and unless the directors otherwise provide in the resolution appointing the committee or in any subsequent resolution, with respect to a committee appointed under Articles 18.1 or 18.2:

- (1) the committee may meet and adjourn as it thinks proper;
- (2) the committee may elect a chair of its meetings but, if no chair of a meeting is elected, or if at a meeting the chair of the meeting is not present within 15 minutes after the time set for holding the meeting, the directors present who are members of the committee may choose one of their number to chair the meeting;
- (3) a majority of the members of the committee constitutes a quorum of the committee; and
- (4) questions arising at any meeting of the committee are determined by a majority of votes of the members present, and in the case of an equality of votes, the chair of the meeting does not have a second or casting vote.

19. Officers

19.1 Directors May Appoint Officers

The directors may, from time to time, appoint such officers, if any, as the directors determine and the directors may, at any time, terminate any such appointment.

19.2 Functions, Duties, and Powers of Officers

The directors may, for each officer:

- (1) determine the functions, and duties of the officer;
- (2) delegate to the officer any of the powers exercisable by the directors on such terms and conditions and with such restrictions as the directors think fit; and
- (3) revoke, withdraw, alter, or vary all or any of the functions, duties, and powers of the officer.

19.3 Qualifications

No officer may be appointed unless that officer is qualified in accordance with the *Business Corporations Act*. One person may hold more than one position as an officer of the Company. Any person appointed as the chair of the board or as a managing director must be a director. Any other officer need not be a director.

19.4 Remuneration and Terms of Appointment

All appointments of officers are to be made on the terms and conditions and at the remuneration (whether by way of salary, fee, commission, participation in profits, or otherwise) that the directors think fit and are subject to termination at the pleasure of the directors, and an officer may in addition to such remuneration be entitled to receive, after such officer cease to hold such office or leaves the employment of the Company, a pension or gratuity.

20. Indemnification

20.1 Definitions

In this Article 20:

- (1) “**eligible penalty**” means a judgment, penalty, or fine awarded or imposed in, or an amount paid in settlement of, an eligible proceeding;
- (2) “**eligible proceeding**” means a legal proceeding or investigative action, whether current, threatened, pending, or completed, in which a director, former director, or alternate director of the Company (an “eligible party”) or any of the heirs and legal personal representatives of the eligible party, by reason of the eligible party being or having been a director or alternate director of the Company:
 - (a) is or may be joined as a party; or
 - (b) is or may be liable for or in respect of a judgment, penalty, or fine in, or expenses related to, the proceeding; and

(3) “**expenses**” has the meaning set out in the *Business Corporations Act*.

20.2 Mandatory Indemnification of Directors

Subject to the *Business Corporations Act*, the Company must indemnify a director, former director, or alternate director of the Company and their heirs and legal personal representatives against all eligible penalties to which such person is or may be liable, and the Company must, after the final disposition of an eligible proceeding, pay the expenses actually and reasonably incurred by such person in respect of that proceeding. Each director and alternate director is deemed to have contracted with the Company on the terms of the indemnity contained in this Article 20.2.

20.3 Permitted Indemnification

Subject to any restrictions in the *Business Corporations Act*, the Company may indemnify any person.

20.4 Non-Compliance with *Business Corporations Act*

The failure of a director, alternate director, or officer of the Company to comply with the *Business Corporations Act* or these Articles or, if applicable, any former *Companies Act* or former Articles, does not invalidate any indemnity to which such person is entitled under this Part 20.

20.5 Company May Purchase Insurance

The Company may purchase and maintain insurance for the benefit of any person (or their heirs or legal personal representatives) who:

- (1) is or was a director, alternate director, officer, employee, or agent of the Company;
- (2) is or was a director, alternate director, officer, employee, or agent of a corporation at a time when the corporation is or was an affiliate of the Company;
- (3) at the request of the Company, is or was a director, alternate director, officer, employee, or agent of a corporation or of a partnership, trust, joint venture, or other unincorporated entity;
- (4) at the request of the Company, holds or held a position equivalent to that of a director, alternate director, or officer of a partnership, trust, joint venture, or other unincorporated entity,

against any liability incurred by such person as such director, alternate director, officer, employee, or agent or person who holds or held such equivalent position.

21. Dividends

21.1 Payment of Dividends Subject to Special Rights

The provisions of this Part 21 are subject to the rights, if any, of the Shareholder.

21.2 Declaration of Dividends

Subject to the *Business Corporations Act* and the rights of the Shareholder, the directors may from time to time declare and authorize payment of such dividends as they may consider appropriate.

21.3 No Notice Required

The directors need not give notice to any Shareholder of any declaration under Article 21.2.

21.4 Record Date

The record date is 5:00 p.m. on the date on which the directors pass the resolution declaring the dividend.

21.5 Manner of Paying Dividend

A resolution declaring a dividend may direct payment of the dividend wholly or partly in money or by the distribution of specific assets or of fully paid shares or of bonds, debentures, or other securities of the Company or any other corporation, or in any one or more of those ways.

21.6 Settlement of Difficulties

If any difficulty arises in regard to a distribution under Article 21.5, the directors may settle the difficulty as they deem advisable, and, in particular, may:

- (1) set the value for distribution of specific assets;
- (2) determine that money in substitution for all or any part of the specific assets to which the Shareholder is entitled may be paid to the Shareholder on the basis of the value so fixed in order to adjust the rights of all parties; and
- (3) vest any such specific assets in trustees for the persons entitled to the dividend.

21.7 When Dividend Payable

Any dividend may be made payable on such date as is fixed by the directors.

21.8 Dividends to be Paid in Accordance with Number of Shares

All dividends on shares of any class or series of shares must be declared and paid according to the number of such shares held.

21.9 Dividend Bears No Interest

No dividend bears interest against the Company.

21.10 Fractional Dividends

If a dividend to which a Shareholder is entitled includes a fraction of the smallest monetary unit of the currency of the dividend, that fraction may be disregarded in making payment of the dividend and that payment represents full payment of the dividend.

21.11 Payment of Dividends

Any dividend or other distribution payable in money in respect of shares may be paid by cheque, electronic transfer or as otherwise determined by the directors of the Company and made payable to the Shareholder.

21.12 Capitalization of Retained Earnings or Surplus

Notwithstanding anything contained in these Articles, the Company may by special resolution capitalize any retained earnings or surplus of the Company and may from time to time issue, as fully paid, bonds, debentures, or other securities of the Company as a dividend representing the retained earnings or surplus so capitalized or any part thereof.

22. Documents, Records and Reports

22.1 Recording of Financial Affairs

The directors must cause adequate accounting records to be kept, to record properly the financial affairs and condition of the Company for each Fiscal Year and to comply with the *Business Corporations Act*.

22.2 Auditor and Audited Financial Statements

The directors will appoint an auditor to prepare audited financial statements for the Company and which shall be prepared for each Fiscal Year.

22.3 Remuneration of Auditor

The directors may set the remuneration of the auditor of the Company.

22.4 No Waiver of Auditor

Notwithstanding the provisions of the *Business Corporations Act*, including without limitation subsection 203(2), a resolution to waive the appointment of an auditor will be of no force or effect.

22.5 Disclosure of Financial Statements

For so long as the City of Burnaby is a Shareholder of the Company, the Company will present at an open meeting of the municipal council of the City of Burnaby the financial statements of the Company presented to the annual general meeting of the Company and the report of the auditor on those financial statements within 120 days of the end of each Fiscal Year.

22.6 Inspection of Company Records

The Shareholder will be entitled to discovery of any and all information respecting any details or conduct of the Company's business and affairs, limited only to the extent that the directors, acting in good faith and in accordance with the requirements of *FOIPPA*, determine it would be inexpedient in the interests of the Company to make certain information available and neither the *Business Corporations Act* nor *FOIPPA* otherwise require that the Company make such information available to the Shareholder.

23. Notices

23.1 Method of Giving Notice

Unless the *Business Corporations Act* or these Articles provide otherwise, a notice, statement, report, or other record required or permitted by the *Business Corporations Act* or these Articles to be sent by or to a person may be sent by any one of the following methods:

- (1) mail addressed to the person at the applicable address for that person as follows:
 - (a) for a record mailed to a Shareholder, the Shareholder's registered address;
 - (b) for a record mailed to a director or officer, the prescribed address for mailing shown for the director or officer in the records kept by the Company or the mailing address provided by the recipient for the sending of that record or records of that class; and
 - (c) in any other case, the mailing address of the intended recipient;
- (2) delivery at the applicable address for that person as follows, addressed to the person:
 - (a) for a record delivered to a Shareholder, the Shareholder's registered address;
 - (b) for a record delivered to a director or officer, the prescribed address for delivery shown for the director or officer in the records kept by the Company or the delivery address provided by the recipient for the sending of that record or records of that class; and
 - (c) in any other case, the delivery address of the intended recipient;
- (3) unless the intended recipient is the auditor of the Company, sending the record by fax to the fax number provided by the intended recipient for the sending of that record or records of that class;
- (4) unless the intended recipient is the auditor of the Company, sending the record by email to the email address provided by the intended recipient for the sending of that record or records of that class; or
- (5) physical delivery to the intended recipient.

23.2 Deemed Receipt

A notice, statement, report, or other record that is:

- (1) mailed to a person by ordinary mail to the applicable address for that person referred to in Article 23.1 is deemed to be received by the person to whom it was mailed on the day (Saturdays, Sundays, and holidays excepted) following the date of mailing;
- (2) faxed to a person to the fax number provided by that person referred to in Article 23.1 is deemed to be received by the person to whom it was faxed on the day it was faxed; and
- (3) emailed to a person to the email address provided by that person referred to in Article 23.1 is deemed to be received by the person to whom it was emailed on the day it was emailed.

23.3 Certificate of Sending

A certificate signed by the secretary, if any, or other officer of the Company or of any other corporation acting in that capacity on behalf of the Company stating that a notice, statement, report, or other record was sent in accordance with Article 23.1 is conclusive evidence of that fact.

24. Seal

24.1 Who May Attest Seal

Except as provided in Articles 24.2 and 24.3, the Company's seal, if any, must not be impressed on any record except when that impression is attested by the signatures of:

- (1) any two directors;
- (2) any officer, together with any director; or
- (3) any one or more directors or officers or persons as may be determined by the directors.

24.2 Sealing Copies

For the purpose of certifying under seal a certificate of incumbency of the directors or officers of the Company or a true copy of any resolution or other document, despite Article 24.1, the impression of the seal may be attested by the signature of any director or officer or the signature of any other person as may be determined by the directors.

24.3 Mechanical Reproduction of Seal

The directors may authorize the seal to be impressed by third parties on share certificates or bonds, debentures, or other securities of the Company as they may determine appropriate from time to time. To enable the seal to be impressed on any share certificates or bonds, debentures, or other securities of the Company, whether in definitive or interim form, on which facsimiles of any of the signatures of the directors or officers of the Company are, in accordance with the *Business Corporations Act* or these Articles, printed or otherwise mechanically reproduced, there may be delivered to the person employed to engrave, lithograph, or print such definitive or interim share certificates or bonds, debentures, or other securities one or more unmounted dies reproducing the seal, and such persons as are authorized under Article 24.1 to attest the Company's seal may in writing authorize such person to cause the seal to be impressed on such definitive or interim share certificates or bonds, debentures, or other securities by the use of such dies. Share certificates or bonds, debentures, or other securities to which the seal has been so impressed are for all purposes deemed to be under and to bear the seal impressed on them.

24.4 Execution of Documents Generally

The directors may from time to time by resolution appoint any one or more persons, officers, or directors for the purpose of executing any instrument, document, or agreement in the name of and on behalf of the Company for which the seal need not be affixed, and if no such person, officer, or director is appointed, then any one officer or director of the Company may execute such instrument, document, or agreement.

25. Prohibitions

25.1 Definitions

In this Part 25:

- (1) “**security**” has the meaning assigned in the *Securities Act* (British Columbia);
- (2) “**transfer restricted security**” means:
 - (a) a share of the Company;
 - (b) a security of the Company convertible into shares of the Company; or
 - (c) any other security of the Company that must be subject to restrictions on transfer in order for the Company to satisfy the requirement for restrictions on transfer under the “private issuer” exemption of Canadian securities legislation or under any other exemption from prospectus or registration requirements of Canadian securities legislation similar in scope and purpose to the “private issuer” exemption.

25.2 Consent Required for Transfer of Shares or Transfer Restricted Securities

No security or share in the Company or other transfer restricted security in the Company may be sold, transferred, or otherwise disposed of without the consent of the Shareholder by Shareholder Resolution, and Shareholder is required to give any reason for refusing to consent to any such sale, transfer, or other disposition.

26. Other Corporate Matters

26.1 Restrictions on Business

The Company is restricted from conducting any business that is not related to its purposes set out in Article 1.3.

26.2 Annual Public Information Meeting

The Company will hold an annual information meeting open to members of the public for the purposes of the public receiving information about the activities and achievements of the Company including to review the Company’s audited financial statements. The annual information meeting must be held at least once in each calendar year on such dates and at such times and place as may be determined by the directors.

26.3 Public Access

Subject to the rules and regulation of the City of Burnaby, the Company will keep a copy of these Articles at Burnaby City Hall for the purposes of inspection by any person at the times permitted by the City of Burnaby.

26.4 No Subsidiary Without Approval of the Inspector and the Shareholder

The Company will not create, organize or facilitate the incorporation of a subsidiary corporation of the Company without the prior written consent of the Inspector of Municipalities and the Shareholder.

26.5 Restrictions on Investment of Monies

Without limiting the Company's purposes set out in Article 1.3, the Company may not invest or reinvest any monies held by the Company in excess of the Company's operational requirements, or that are not immediately required by the Company, to the types of investments permitted to be made by municipalities under Section 183 of the *Community Charter*, S.B.C. 2003, c. 26, as may be amended, replaced or re-enacted from time to time.

26.6 Disposal of Corporate Assets

The Company, without prior written approval of the Shareholder, may not:

- (1) dispose of any of the assets or undertakings of the Company if such disposition is not in furtherance of the Company's purposes as set out in Article 1.3;
- (2) dispose of any of the cash assets of the Company that in a single transaction or series of related transactions exceeds an amount equal to twenty million dollars (\$20,000,000) (in 2023 dollars) adjusted annually by the All-Items Consumer Price Index for Vancouver, B.C. published from time to time by Treasury Service for Statistics Canada, or its successor in function, to the time of the proposed disposition; or
- (3) dispose of any fixed assets or undertakings of the Company that in a single transaction or series of related transactions exceeds an amount equal to twenty million dollars (\$20,000,000) (in 2023 dollars) fair market value, adjusted annually by the All-Items Consumer Price Index for Vancouver, B.C. published from time to time by Treasury Service for Statistics Canada, or its successor in function, at the time of the proposed disposition.