

File No. **505-09/17 and 520-19/17**
Address: **2087-2103 Prospect Street**

RESIDENTIAL DEVELOPMENT AGREEMENT made this ____ day of November, 2019

B E T W E E N:

CHILDREN'S FINANCIAL GROUP INC.
(hereinafter called the "Owner")

OF THE FIRST PART

- and -

THE CORPORATION OF THE CITY OF BURLINGTON
(hereinafter called the "City")

OF THE SECOND PART

WHEREAS the Owner is the Owner of the lands described in Schedule "A" to this Agreement (the "Lands") and has applied to the City for amendment of the City's Zoning By-laws as they affect this property (the "Amending By-law");

AND WHEREAS the City is of the opinion that it is in the best interest of the City and its inhabitants to pass the Amending By-law upon the Owner agreeing to observe the covenants set forth herein.

NOW THEREFORE in consideration of the passing of the Amending By-law and the sum of One Dollar paid by the City to the Owner (the receipt of which is hereby acknowledged) and other consideration, the parties hereto covenants and agrees as follows:

1. The Owner, and thereafter any successor in title to the Lands covenants and agrees that no building will be erected on the said lands until the City or the City's Director of City Building-Planning, Building & Culture has granted site plan approval pursuant to section 41 of the *Planning Act* R.S.O. 1990, c. P.13 ("Site Plan Approval"). Notwithstanding the previous sentence, the prohibition outlined in this Section 1 shall not apply to any building for which Site Plan Approval is not required or for a purpose-built temporary sales centre building.
2.
 - a. All buildings proposed to be built on the Lands as contemplated by the Amending By-law shall be designed by registered architects or professional engineers who are legally entitled to practice in the Province of Ontario and who are qualified in the opinion of their respective associations, by experience and training to provide the architectural and engineering designs involved in the work; and upon approval of the plans and specifications and during construction of the buildings, shall not change the plans and specifications, except with prior approval of the Director of City Building-Planning, Building & Culture.
 - b. It is a requirement that general, on site supervision and inspection of the said buildings to be constructed herein shall be provided by the professionals noted in Section 2(a) or their formally designated, qualified appointees.
 - c. For any building in excess of two storeys in height, the professional engineer responsible for the structural design, or a professional engineer formally designated by the former, shall provide the Director of City Building-Planning, Building & Culture with a

certificate to the effect that the building has been erected according to the structural plans approved for the building permit.

3. The City's approval of the plans subject to Site Plan Approval (the "Site Plans") may be subject to conditions, including, but not limited to:
 - a. use of building material of specified materials or quality; and
 - b. construction of the buildings and works in specified order.
4. The Owner covenants and agrees that upon the coming into force of the Amending By-law and approval of the Site Plans by the City or City's Director of City Building-Planning, Building & Culture, the proposed buildings and other works shown on the Site Plans will be constructed in accordance therewith.
5.
 - a. The Owner covenants and agrees to provide to the satisfaction of and at no expense to the City, the facilities and works required pursuant to this Agreement within three (3) months of first occupancy or use of the buildings contemplated by the Site Plans, unless otherwise authorized in writing by the Executive Director of Capital Works for the City. The three (3) month time period does not apply to landscaping, which shall be subject to the requirements of a site plan agreement made pursuant to s.41 of the *Planning Act*.
 - b. The Owner covenants and agrees to carry out to the satisfaction of the City all of the conditions of rezoning and Site Plan Approval for the subject lands.
 - c. The Owner covenants and agrees to maintain to the satisfaction of the City and at the sole risk and expense of the Owner such of the facilities or works as Council requires, to be provided pursuant to the Site Plan Approval.
6. The Owner covenants and agrees further:
 - a. that all surface and roof drainage will be controlled on the Lands and taken to an approved outlet;
 - b. all grading and drainage shall be in accordance with the Site Plans;
 - c. that construction work will be carried forward as expeditiously as may be, in a good and workmanlike manner in accordance with good trade practices and so as to minimize nuisance to the neighbours; that all necessary precautions to avoid dust, noise and other nuisances and to provide for the public safety will, so far as reasonable, be taken;
 - d. that garbage disposal facilities will be located and designated according to the approved Site Plans;
 - e. that boundary fences will be provided by the Owner to the City's satisfaction if shown on the approved Site Plans;
 - f. that upon failure by the Owner to do any act that the public safety requires on reasonable written notice the City, in addition to any other remedy, may go in and do same at the Owners expense and collect the cost in like manner as municipal taxes;
7. The Owner covenants and agrees that upon failure by the Owner to do any act that is

required by this Agreement, the City may, in addition to any other remedy under this Agreement, enter upon the said lands if necessary and do the said act at the Owner's expense and collect the cost in like manner as municipal taxes as provided for in Section 446 of the *Municipal Act*, R.S.O. 2001.

8. The Owner covenants and agrees to impose a condition in any rental or sales agreement that there shall be no individual roof top or tower type television antennae on or appurtenant to any multiple family dwellings, except semi-detached dwellings, but this will not prevent the erection and use of not more than one community television antenna per building on a rental or service basis.
9. The Owner covenants and agrees that the location and size of any sign to be erected be part of the required plans when they are submitted to Council for approval.
10. The Owner covenants and agrees to convey to the City, prior to the issuance of a building permit, as land required by the City for park purposes, land being subject to the application referred to in the first recital hereof, in such amount as may be required in a By-law passed pursuant to Section 42(3) of the *Planning Act*, R.S.O. 1990, c. P.13, and in effect at the date of the issuance of a building permit, or, at the option of the City, pay to the City the value of such land required in cash.
11. The Owner covenants and agrees that prior to the issuance of any building permit, they shall:
 - a. pay all outstanding taxes affecting the lands herein;
 - b. commute all outstanding local improvement charges affecting the lands herein;
12. The Owner covenants and agrees that when required, a solid fence at least 6 feet high along the entire frontage of the Lands shall be constructed prior to commencing excavation, at a location as determined by the Director of City Building-Planning, Building & Culture, and to maintain the said fence in good condition until such time as the building is nearing completion and its removal is approved by the Director of City Building-Planning, Building & Culture. The Owner shall also construct or erect such additional fencing around the perimeter of the Lands as is required by the Director of City Building-Planning, Building & Culture for the prevention of injury to property or persons.
13. The Owner covenants and agrees to comply with the engineering and financial requirements of the Regional Municipality of Halton.
14. The Owner covenants and agrees to deposit with the City at the time of application for a building permit, the sum of \$50.00 per dwelling unit in addition to the sums deposited pursuant to Burlington By-law 16-1994, as amended (the "Maintenance Deposit"). The Maintenance Deposit is to ensure:
 - a. that the construction site and adjacent lands used in connection therewith are kept in a clean and tidy state; and
 - b. that streets used to service the site are kept clean and free of mud, dust and debris.

For greater clarity, the Maintenance Deposit may be lodged with the City in the form of a letter or credit or cash at the sole discretion of the Owner.

15. If, in the opinion of the City's Executive Director of Capital Works, the construction site and adjacent lands used in connection therewith are not being kept in a clean and tidy

state, and/or the streets used to service the site are not being kept clean and free of mud, dust and debris by the Owner or anyone authorized by the Owner to do work on its behalf on the Lands, the City shall provide written notice to the owner in accordance with this Agreement and the Owner shall have two days (not including weekends or statutory holidays) to remedy such deficiencies. Where such deficiencies are not remedied within such two day period, the City is authorized to send its employees or contractors to enter the Lands and return the lands to a clean and tidy state, including the cleaning of mud, dust and debris from the streets serving the site, and may charge the cost of so doing against the Maintenance Deposit lodged with the City. If the said Maintenance Deposit is insufficient to pay the cost of the work done by City employees or contractors, the Owner agrees to pay the balance to the City forthwith. This section is binding on the Owner provided that the Owner, an agent of the Owner or a party for whom the Owner is responsible at law, is causing the lack of cleanliness and tidiness or causing the depositing of mud, dust or debris on a street. .

16. The Owner indemnifies and saves harmless the City against all losses, damages, claims, actions, demands, suits, costs and interest arising directly or indirectly from anything done in connection with the development whether in performance of, outside of, or contrary to this Agreement and whether or not in accordance with the City's standards, inclusive of anything done on the public highway or other City or public property.
17. The Owner, its successors and assigns, is hereby notified that development charges of the City may be payable in accordance with By-law 46-2014, as may be amended, upon issuance of a building permit at the rate in effect on the date issued.
18. The Owner, its successors and assigns, is hereby notified that Educational Development Charges are payable in accordance with the applicable Education Development Charges By-law and are required at the issuance of a building permit. Any building permits which are additional to the maximum unit yield which is specified by the development agreement are subject to Education Development Charges prior to the issuance of a building permit, at the rate in effect at the date of issuance.
20. The owner shall complete the following to the satisfaction of the Director of City Building:
 - a) Agree to provide, at the Site Plan stage, details about enhanced landscaping within the curbed area abutting the adjacent RM1 zone to the east.
 - b) Agree to provide, at the Site Plan stage, detailed landscaping plans for the 2 metre setback abutting Prospect Street, which visually screens the front yard parking area.
 - c) Agree to provide a walkway on the north and east side of the existing apartment building, with pedestrian connection to the municipal sidewalk on Prospect Street in addition to the walkway contemplated on the east side of the building.
 - d) Agree that the two (2) new townhouse buildings to be developed at the rear of the property shall be provided as rental housing units.
 - e) Agree to provide an accessible path of travel to entrances of the existing apartment building in accordance with the *Accessibility for Ontarians with Disabilities Act*. Agree to provide indoor amenity area and accessibility improvements to the existing apartment building at 2095 Prospect Street as part of the redevelopment process. The indoor amenity area will be designed to be accessible. The indoor accessibility improvement will establish accessible paths of travel from the entrance to the existing elevators in accordance with the *Accessibility for Ontarians with Disabilities Act*.
21. The owner shall complete the following to the satisfaction of the Director of Transportation Services:

- a. Submit for approval a Transportation Demand Management (TDM) Plan at the Site Plan stage with measures to reduce vehicular demand and encourage the use of public transit, cycling and walking, that addresses the following:
 - i. The owner will offer TDM packages to all tenants which include transit schedules and maps, and a \$300.00 (Three Hundred) PRESTO card. One (1) PRESTO card will be issued for each unit that requests one, one (1) time only.
 - ii. The owner will provide cycling maps to tenants of all existing and new units
 - iii. The owner will provide secure bike parking (bike racks/bike lockers) that will be located conveniently on site as well as air pumps and bike maintenance tools.
22. The owner shall complete the following to the satisfaction of Burlington Hydro Inc.:
 - a. Agree to meet with Burlington Hydro Inc. to discuss servicing of the stacked townhouses and the location of the transformer pad prior to submitting a site plan application.
23. The Owner charges the lands with the performance of this Agreement.
24. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.
25. Notwithstanding anything in this agreement to the contrary, if the Owner or the City are bona fide delayed in or prevented from performing any obligation arising under this Agreement by reason of strikes or other labour disturbances, civil disturbance, material or labour shortage, restrictive government laws, including but not limited to the issuance of required permits, regulations or directives, acts of public enemy, war, terrorism, riots, sabotage, crime, lightning, earthquake, fire, hurricane, tornado, flood, explosion or other act of God, then the performance of such obligation is excused for so long as such cause exists, and the party so delayed shall be and is entitled, without being in breach of this Agreement, to carry out such obligations within the appropriate time period after the cessation of such cause.
26. Any notices required or desired to be given to any of the Parties in connection with this Agreement, or arising therefrom, shall be in writing and shall be personally delivered or sent by facsimile transmission or other means of instantaneous transmission in regular commercial usage at such time, verified by a transmission report as follows:
 - a. To the Owner at: 3221 North Service Road
Burlington, ON L7N 3G2
 - b. To the City at: 426 Brant Street
P.O. Box 5013
Burlington, ON L7R 3Z6
Attention: City Solicitor
Fax: (905) 335-7842
27. Any Party may, from time to time, by written notice sent to the other Parties, in accordance with the foregoing provisions, change the address or facsimile number to which its notices are to be delivered or transmitted (as the case may be).
28. This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Ontario and of Canada applicable thereto, and the Parties submit to the jurisdiction of the courts of the Province of Ontario.

29. Any reference in this Agreement to any law, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body shall be construed as a reference thereto as amended or re-enacted from time to time, or as a reference to any successor thereto.

{The remainder of this page is intentionally left blank.}

(Only use above if warranted)

30. This agreement shall be read with such changes in number and gender as the circumstances require

IN WITNESS WHEREOF the Parties have caused their respective hands and corporate seals to be affixed as attested to by the hands of their proper signing officers duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED in
the presence of

CHILDREN'S FINANCIAL GROUP INC.

Per: _____
Name: Donna Haid
Title:

Per: _____
Name:
Title:

I/We have the authority to bind the Corporation.

SIGNED, SEALED AND DELIVERED in
the presence of

**THE CORPORATION OF THE CITY OF
BURLINGTON**

Per: _____
Name: Marianne Meed Ward
Title: Mayor

Per: _____
Name: Angela Morgan
Title: City Clerk

Legal Services Approved:

Authorized by By-law: 55-2019
Date: October 28, 2019
Item: PB-29-19

SCHEDULE "A"

Pt Lot 84, RCP PL99, as in 830229; City of Burlington

Being all of PIN 07076-0100 (LT)