

DEVELOPMENT CHARGE SECTION 27 AGREEMENT

THIS AGREEMENT made this day of October, 2024

B E T W E E N

440 ESSA DEVELOPMENTS INC.

(the “**Applicant**”)

-and-

THE CORPORATION OF THE CITY OF BARRIE

(the “**Municipality**”)

(collectively, the “**Parties**”)

WHEREAS:

- A. The Applicant is the Owner of the lands described in Schedule “A” (the “**Lands**”);
- B. The Applicant applied for and obtained approval of a zoning by-law amendment application and a subsequent minor variance application to permit the redevelopment of the Lands with a nine (9) storey mixed-use building, containing 262 purpose-built rental units and 1,070 square metres of ground floor commercial space (the “**Development**”);
- C. The Applicant also submitted a Site Plan Approval application pursuant to Section 41 of the *Planning Act*, R.S.O. 1990, c. P.13 (the “**Planning Act**”) to facilitate the Development, which was deemed complete by the Municipality as of December 23, 2020 and is known as municipal file no. D11-027-2020 (the “**Site Plan Application**”);
- D. Development charges are payable by the Applicant in accordance with the City’s Development Charge By-laws and the *Development Charges Act, 1997, S.O. 1997, c. 27* (the “**DC Act**”);
- E. The *DC Act* provides that a municipality may enter into an agreement with persons who are required to pay a development charge providing for all or any part of the development charge to be paid before or after it would otherwise be payable;
- F. The Applicant will be required to obtain building permits from the Municipality in order to construct the Development on the Lands, which permits would otherwise have required the payment of certain development charges in accordance with Section 26 of the *DC Act*;
- G. The Municipality via motion **XX-X-XXX** has agreed to determine the amount of the development charge under the by-law on the date the Site Plan Application was deemed complete provided the Applicant enter into an agreement under Section 27 of the *DC Act* with terms and conditions satisfactory to the Municipality;
- H. The Applicant has agreed that it will enter into an agreement with the Municipality providing for the payment by the Applicant of such development charges in consideration of the Municipality’s approval of the Site Plan and issuance of building permits;

NOW THEREFORE IN CONSIDERATION OF the foregoing and in consideration of the Municipality providing approval of the Site Plan and building permits for development of the Lands, the parties hereto agree one with the other as follows:

AUTHORITY TO DEFER PAYMENT OF DEVELOPMENT CHARGES

1. The Applicant acknowledges the Development on the Lands will require the payment of development charges in accordance with the City's development charge by-laws and the *DC Act*. The Applicant also acknowledges that this Agreement is an agreement made pursuant to Section 27 of the *DC Act* which provides for the payment of development charges to be paid before or after it would otherwise be payable and the amount of the development charge to be determined under the by-law on the date specified in the agreement.

DETERMINATION OF AMOUNT AND PAYMENT OF DEVELOPMENT CHARGES

2. (i) The Applicant shall pay all development charges as may be required by the Municipality for the Development, with the total amount of the development charge being the amount of the development charge that would be determined under the Municipality's development charge by-law on December 23, 2020, being the date the Site Plan Application was deemed complete. The determination of the development charge pursuant to this section applies regardless that the by-law under which the amount of the development charge would be determined is no longer in effect on the date the development charge is payable.

(ii) Pursuant to Section 26.2(1.1) of the *DCA*, the amount of the development charge determined under subsection 2(i) above shall be reduced in accordance with the following rules:

- a. a development charge for a residential unit intended for use as a rented residential premises with three or more bedrooms shall be reduced by 25 per cent;
- b. a development charge for a residential unit intended for use as a rented residential premises with two bedrooms shall be reduced by 20 per cent; and
- c. a development charge for a residential unit intended for use as a rented residential premises not referred to in paragraphs a or b above shall be reduced by 15 per cent.

(iii) Pursuant to Section 26.1(3) of the *DC Act*, the development charge referred to in subsection 2(i) above in respect of any part of the Development that consists of a rental housing development shall be paid by the Applicant in equal annual instalments beginning on the earlier of the date of the issuance of a permit under the *Building Code Act, 1992*, S.O. 1992, c. 23 (the "***Building Code Act***") authorizing occupation of the building and the date the building is first occupied, and continuing on the following five anniversaries of that date.

(iv) The Applicant shall pay the development charge for the non-residential portion of the Development prior to the issuance of building permits by the Municipality permitting construction of the Development on the Lands.

(v) The Applicant shall pay interest on the development charge set out in subsection 2(i) above at a rate of 3.84%, from December 23, 2020 to the date the building permit is issued. Following

the issuance of the building permit, the Applicant shall pay interest on the deferred development charges not exceeding the maximum interest rate determined in accordance with Section 26.3 of the *DC Act* which will be calculated at the rate in effect at the time of building permit issuance.

TERMINATION

3. The Applicant agrees that this Agreement is subject to all required building permits being issued no later than October 30, 2025, following which this Agreement is automatically terminated and development charges shall be payable in accordance with the rates in effect at the time of future building permit issuance.

REGISTRATION ON TITLE

4. The Applicant hereby covenants and agrees that this Agreement and any such schedules attached hereto may be registered upon title to the Lands and that such registration shall be at the instance of the Municipality and at its sole and absolute discretion. The Applicant further covenants and agrees to pay all costs associated with the preparation and registration of this Agreement, as well as all other costs incurred by the Municipality as a result of the registration of any other documents pertaining to this Agreement, including but not limited to, any amendments thereto.

POSTPONEMENT AND SUBORDINATION

5. The Applicant covenants and agrees, at its own expense, to obtain and register such documentation from its mortgagees or other encumbrancers as may be deemed necessary by the Municipality and its solicitor to postpone and subordinate their interest in the Lands to the interest of the Municipality to the extent that this Agreement shall take effect and have priority as if it had been executed and registered prior to the execution and registration of the document or documents giving to the mortgagee and/or encumbrancers their interest in the Lands concurrent with the registration hereof.

REMOVAL OF AGREEMENT FROM TITLE

6. The Parties agree that upon the Applicant satisfying all provisions of this Agreement by the completion of all payments required herein, the Municipality shall not unreasonably withhold its consent to the removal from title of this Agreement and shall execute such documents as may be required to effect such removal from title.

COLLECTION OF CHARGES

7. The Applicant acknowledges and understands that if any development charge or portion thereof remains unpaid after the date(s) such development charge is payable under this Agreement, the Municipality may, pursuant to Section 32 of the *DC Act* and in addition to any other rights it may have under this Agreement, add the unpaid amount to the tax roll of the Lands, without the requirement for any notice, and collect such amount in the same manner as taxes.

NOTICES

8. (i) Any notice, demand, acceptance, or request required to be given hereunder in writing, shall be deemed to be given if either personally delivered or mailed by registered mail, postage prepaid, electronically mailed, or by facsimile transmission (at any time other than during a general discontinuance of postal services due to a strike, lockout, or otherwise) and addressed to the Applicant as follows:

440 ESSA DEVELOPMENTS INC.
28 Rivalda Road
Toronto, ON
M9M 2M3

Attn: Nick Stillo, Director
Tel: 416-991-9814
Tel 2: 416-741-4777
Email: nstillo@oneurban.ca

or such change of address or fax number as the Applicant has by written notification forwarded to the Municipality; and to the Municipality as follows:

CITY OF BARRIE
City Hall - 70 Collier Street
P.O. Box 400
Barrie, ON
L4M 4T5

Attn: City Clerk
Tel: (705) 739-4220
Fax: (705) 739-4237
Email: ServiceBarrie@barrie.ca

or such change of address as the Municipality has by written notification forwarded to the Applicant.

- (ii) Any notice shall be deemed to have been given to and received by the party to which it is addressed:

- a) If delivered, on the date of delivery;
- b) If mailed, then on the fifth day after the mailing thereof;
- c) If electronically mailed, on the date it was transmitted; or
- d) If faxed, on the date of faxing provided an original receipt confirmation can be provided.

WARRANTY

9. The Applicant represents and warrants to the Municipality as follows:

- a) the Applicant is a corporation validly subsisting under the laws of Ontario and has full corporate power and capacity to enter into this Agreement and any documents arising from this Agreement; and
- b) all necessary corporate action has been taken by the Applicant to authorize the execution and delivery of this Agreement.

BINDING ON SUCCESSORS

10. It is hereby agreed by and between the parties hereto that this Agreement shall be enforceable by and against the parties hereto, their heirs, executors, administrators, successors and assigns and that the Agreement and all the covenants by the Applicant herein contained shall run with the Lands for the benefit of the Municipality.

IT WITNESS WHEREOF the Parties hereto have hereunto affixed their corporate seals duly attested by the hands of their property signing officers in that behalf.

)
) **440 ESSA DEVELOPMENTS INC.**
)
)
) _____
) **Name:**
) **Title:**
) I have authority to bind the Corporation
)
)
) **THE CORPORATION OF THE CITY OF BARRIE**
)
) _____
) **Alex Nuttall**
) **Mayor**
)
)
) _____
) **Wendy Cooke**
) **Clerk**
)

SCHEDULE "A"

DESCRIPTION OF LANDS

PART OF LOT 5 CONCESSION 13 INNISFIL, PART 1 PLAN 51R42219; SUBJECT TO AN EASEMENT OVER PART 1 PLAN 51R42219 AS IN SC1764528; SUBJECT TO AN EASEMENT OVER PARTS 1 AND 2, 51R43632 IN FAVOUR OF PART LOT 5, CONCESSION 13, INNISFIL, PART 4 PLAN 51R41164 AS IN SC1924524; TOGETHER WITH AN EASEMENT OVER PART 1, 51R43569 AS IN SC1924525; CITY OF BARRIE Being PIN 58916-0174 (LT)