

**THIS AGREEMENT** commencing the 12<sup>th</sup> day of July, 2024.

**B E T W E E N:**

**THE TRUSTEES OF PHILPOTT MEMORIAL CHURCH**

(the "Owner")

- and -

**HC EC 89 PARK GP INC., in its capacity as general partner  
for, and on behalf of HC EC 89 PARK LP**

(the "Developer")

-and-

**CITY OF HAMILTON**

(the "City")

**WHEREAS** the Owner is the registered owner of certain lands and premises situated in the City of Hamilton, Ontario, municipally known as 84 York Boulevard, City of Hamilton and more particularly described in Schedule "A" attached to and forming part of this mutual agreement (the "Property");

**AND WHEREAS** one of the purposes of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18 as amended or re-enacted from time to time (hereinafter referred to as the "*Ontario Heritage Act*"), is to support, encourage and facilitate the conservation, protection and preservation of the heritage of Ontario;

**AND WHEREAS** under section subsections 29(1) of the *Ontario Heritage Act*, the Council of the City is the authority to designate a property to be of cultural heritage value or interest;

**AND WHEREAS** a notice of intention to designate the Property was served on the Owner, the Ontario Heritage Trust, and published in a newspaper having general circulation in the city of Hamilton on April 15, 2024;

**AND WHEREAS** objections to such notice of intention to designate were received by Council and considered at its meeting on June 26, 2024;

**AND WHEREAS** Council has not withdrawn such notice of intention to designate the Property and is able to pass a by-law designating the Property within 120 days after the date of publication of the notice of intention to designate or within such period of time as may be agreed upon with the Owner;

**AND WHEREAS** Council of the City of Hamilton and the Owner and Developer wish to extend the time in which Council is able to pass a by-law designating the Property to allow the Parties to explore the possibility of a heritage easement or covenant agreement in lieu of a designation;

**AND WHEREAS** section 2(1)(1) of Ontario Regulation 385/21 allows Council and the Owner to agree to extend the period of time in which Council can pass a by-law designating the Property set out in section 29(8)(1) of the *Ontario Heritage Act* and the Parties wish to do so;

**AND WHEREAS** Council delegated authority to enter this Agreement to the City of Hamilton's Director of Planning and Chief Planner at its Council meeting on July 12<sup>th</sup>, 2024;

**AND WHEREAS** the Owner and the Developer have entered an Agreement of Purchase of Sale for the Property dated August 4, 2021(as modified, amended, restated or assigned from time to time, collectively, the "Agreement of Purchase and Sale") and the Developer intends to be bound by this Agreement if such transaction is completed and the Developer takes ownership of the Property;

**NOW THEREFORE** for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree:

1. The 120 day timeframe pursuant to section 29(8)(1) of the *Ontario Heritage Act* in which Council may issue a notice of intention to designate the Property is hereby extended to December 11, 2024.
2. The Owner will ensure that the Property is maintained in compliance with the requirements of the Property Standards By-law and take reasonable measures to ensure that the Property is maintained, protected, and secured from vandalism, fire or other threats as required by the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4 and O. Reg. 213/07 (Fire Code) thereunder and shall maintain adequate services including heating for the structure on the Property for the duration of the extension.
3. Until December 11, 2024, the Owner will not transfer the Property to any person other than the Developer unless the transferee has executed an agreement with similar terms to this Agreement and satisfactory to the City.
4. Until December 11, 2024, The Owner shall immediately notify the City in the event that it transfers either the fee simple title to or its possessory interest in the whole or any part of the Property.
5. The Developer will assume the obligations of the Owner pursuant to sections 1, 2, 3, and 4 of this Agreement upon acquisition of the Property pursuant to the Agreement of Purchase and Sale and the Owner will be released from this Agreement upon completion of such transaction.
6. All covenants and provisions contained in this Agreement shall be severable and should any covenant or provision in this Agreement be declared invalid or unenforceable, the validity and enforceability of the remaining covenants and provisions shall not be affected.
7. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission shall be as effective as delivery of an originally executed counterpart hereof.

[execution page to follow]

IN WITNESS WHEREOF the City and the Owner have signed this Agreement.

CITY OF HAMILTON

\_\_\_\_\_  
Steve Robichaud  
Director of Planning and Chief Planner  
Date:

THE TRUSTEES OF PHILPOTT MEMORIAL CHURCH

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Name: \_\_\_\_\_  
Date: *July 6, 2024*

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Name: \_\_\_\_\_  
Date: *July 6, 2024*

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Name: \_\_\_\_\_  
Date: *July 6, 2024*

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Name: \_\_\_\_\_  
Date: *July 6, 2024*

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Name: \_\_\_\_\_  
Date: *July 6, 2024*

HC EC 89 PARK GP INC., in its capacity as  
general partner for, and on behalf of  
HC EC 89 PARK LP

DocuSigned by:  
\_\_\_\_\_  
\_\_\_\_\_

Date: President

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**SCHEDULE "A"**

**PROPERTY DESCRIPTION**

**84 York Boulevard  
Hamilton, Ontario**

PIN: 17586-0075 (LT)

Legal Description:

PT BLK 13 PL 39 PT 1, 2, 3 62R12184 & AS IN VM147689; CITY OF HAMILTON