

The Corporation of the City of Kawartha Lakes

Council Report

Report Number HH2017-001

Date: April 4th, 2017
Time: 2:00 p.m.
Place: Council Chambers

Ward Community Identifier:

Subject: New Affordable Housing & Human Services Offices – Municipal Incentives

Author/Title: Hope Lee, Manager of Housing

Signature:



Recommendation(s):

RESOLVED THAT Report HH2017-001, New Affordable Housing & Human Services Offices – Municipal Incentives, be received;

THAT an exemption be provided for any and all municipal fees and charges including, but not limited to Site Plan Process, Building Permit Fees, Landfill Tipping Fees, Development Application Approval Process (DAAP) Fees, Service Connection Fees and Entrance Permit for the development of both the Affordable Housing and Human Services Office components of the new build at the corner of Lindsay and Queen Streets in Lindsay;

THAT the affordable housing exemptions are provided through a Municipal Housing Facilities Agreement (MHFA) and Bylaw included as Attachment A to Report HH2017-001;

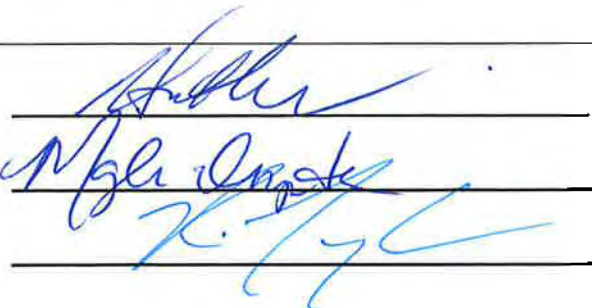
THAT Landfill Tipping Fees are provided through an exemption to Section 5.01 of By-Law 2016-144;

THAT Service Connection are provided through an exemption to Section 23.01 of By-Law 2011-260;

Department Head:

Corporate Services Director / Other:

Chief Administrative Officer:



THAT the Mayor and Clerk be authorized to execute any documents and agreements required by the approval decision; and

THAT a By-law, substantially in the form attached as Attachment A to Report HH2017-001 be forwarded to Council for adoption.

Background:

Capital Project BP1705 (Office Space and Affordable Housing) was approved in the 2017 Capital Budget with a total budget of \$8,000,000.

The budget was established with the following assumptions:

- Since the land and subsequently the new asset is owned by the City, the City would exempt itself from any municipal fees and charges that are typical when developing; and
- Since there is an affordable housing component, which will be leased and operated by the Kawartha Lakes-Haliburton Housing Corporation (KLHHC), the City would exempt the affordable housing (as it has with past KLHHC projects) from any municipal fees and charges that are typical when developing.

It is advantageous for the City to waive any fees or charges it would impose during development upon itself. This will help reduce the capital cost and ultimately the long term debt. Human Services is not able to access any further capital grant funding so there is no advantage in the City seeking these funds from itself.

The land and asset will be owned by the City, and KLHHC will enter into a long term lease in order to operate the affordable housing section. Although this section will not be “owned” by KLHHC the attached Municipal Housing Facility Bylaw and agreement (MHFA) will be put in place. This enables the municipal contributions (detailed below) to the affordable housing portion of the development in accordance with the *Municipal Act, 2001*. The Federal and Provincial Investment in Affordable Housing funding (which KLHHC has been approved to put toward the 24 affordable units) guidelines encourage municipalities to provide these incentives in order to lower capital costs and allow the housing to provide affordable rents. These projects have no ongoing access to any federal or provincial operating funding.

This report will provide the details of the municipal incentives being provided to this project.

Rationale:

Site Plan

The project will be subject to a site plan review; however there will not be a formal application submitted. The City also requires a Letter of Credit for Site Plans to be held as a security for the completion of proposed works to the City's standards. The Letter of Credit or security is valued at 50% of the total construction for all private works and 100% of the total construction costs for any municipal works including service connections, road construction, sidewalk and

restoration activities. The cost to the developer to maintain the Letter of Credit with a financial institution is typically 1-2% of its value. In a KLHHC owned affordable housing development, KLHHC would enter into a site plan agreement, however ask that the requirement for the security be waived. The City will not enter into a site plan agreement or be subject to site plan security.

The affordable housing exemption is provided through the MHFA.

The City's ability to exempt itself from this process is made possible by By-Law 2016-206 which exempts Planning Department Fees for applications initiated by the City.

Development Application Approval Process (DAAP) Fees

Site Plans are subject to the DAAP Fees for the engineering review of applications. A cost estimate for the value of the development's construction is submitted to the Engineering Division and the DAAP fees due to the City are 0.67% of the site works construction cost estimate.

The affordable housing exemption is provided through the MHFA.

The City's ability to exempt itself is provided by By-Law 2016-206 which exempts Planning Department Fees for applications initiated by the City.

Building Permit Fees

The City's Building Bylaw provides an exemption for affordable housing development. It does not provide an exemption for City owned projects of this extent (where the building permit has a cost of over \$500). There is still an ability to provide an exemption however that must follow the Building Code Act and will be completed through a separate process/report through the Building Department later in 2017.

Landfill Tipping Fees

Some contaminated soil exists on the site that needs to be removed. The level of contaminates allows the soil to be taken to the City's own landfill site.

The affordable housing exemption is provided through the MHFA

The City's ability to exempt itself is provided through an exemption to Section 5.01 of By-Law 2016-144.

Service Connection Fees

In order to service the development with water and sanitary services, the Engineering and Corporate Assets Division will administer connections from property line to the municipal services within right of way. This is undertaken as per CKL Mandatory Connection By-Law 2014-255, as amended, and the Water

and Wastewater Services By-Law 2011-260, as amended. The administration, frontage and connection charges are applied as per By-Law 2011-260 and are site specific.

The affordable housing exemption is provided through the MHFA.

The City's ability to exempt itself is provided through an exemption to Section 23.01 of By-Law 2011-260 which is requested within this report.

Entrance Permit

An application for an Entrance Permit is required which includes a fee.

The affordable housing exemption is provided through the MHFA.

The City's exemption is provided through this report.

Other Alternatives Considered:

None.

Financial Considerations:

Although the approximate values of these exemptions are illustrated in the table below, it is important to note that not adding this expense to the capital project reduces the long term debt needs. This benefits both sections. It allows the affordable housing in particular to be offered with more affordable rents. If these exemptions were not provided, the City would receive these revenues; from itself and in turn would have to equally increase the capital budget. There is no net loss in providing the exemptions and as mentioned in the background, no federal/provincial capital funding on the office section to offset them or any ongoing operating subsidy from federal/provincial sources on the affordable housing section to help contribute to the increased debt expense.

	City Office Space	Affordable Housing
Planning Application Fees including - Site Plan - Minor Variance - Deeming Bylaw	\$2,404	\$2,404
Building Permit Fees	\$33,831	\$20,494
Landfill Tipping Fees	\$50,000	\$50,000
DAAP	\$3,827	\$1,369
Service Connections - Application fee	\$3,900	\$3,900

- Frontage Charge Water		
- Frontage Charge Sanitary		
- Connection Fees		
Entrance Permit Fee	\$54	\$54
Totals	\$94,016	\$78,221

Relationship of Recommendation(s) To The 2016-2019 Strategic Plan:

This project contributes to all three Strategic Goals: A Vibrant and Growing Economy, An Exceptional Quality of Life, and A Healthy Environment.

New development in the City contributes to a vibrant economy through the Responsible Fiscal Resource Management and Efficient Infrastructure and Asset Management Strategic Enablers. The creation of new affordable housing is an objective of the Exceptional Quality of Life goal. The use of energy efficiencies and low impact development design contribute to a Healthy Environment.

The project will also support each of the key enablers note in the strategic plan. It will:

- Support fiscally responsible management (Enabler #1) by leveraging funding from other sources for both the construction and the operation of the new facility. The project will also make possible the most cost efficient solution for needed building space.
- Support human resources management (Enabler #2) by integrating HR planning objectives with modern building concepts in design of the new facility
- Support achievement of exceptional municipal service delivery (Enabler #3) by locating the group delivering services more closely with the people being served, and providing space for community engagement as part of the project.
- Supporting asset management objectives (Enabler #4) through a highly space efficient solution, that provides a pilot for planning other future office space for the City, that is integrated with IT planning, and provides leadership for energy management and environmental sustainability.

Review of Accessibility Implications of Any Development or Policy:

The design of the building will meet or exceed all required accessibility needs.

This will be the case for the office space, and the common space that will be open for community use. It will also be the case for the housing portion of the project, in that two of the housing units will be designed as modified accessible units.

Servicing Comments:

The project will not involve any provision of new or expanded services. All site servicing requirements are being addressed within existing system capacity. The approach being taken to design is to reduce the demand for services, through innovative measures. These measures are in keeping with sustainability objectives, and relate to demonstrating leadership in energy and environmental design. The design will, for example, implement measures to better manage rain water so that there is less impact on the storm water sewer system.

Consultations:

Susanne Murchison, Chief Building Official
Adam Found, Corporate Asset Manager
Cristina Neacsu, Public Works, Road Operations
Bryan Robinson, Director, Public Works
Juan Rojas, Director, Engineering and Assets
Christina Sisson, Supervisor, Development Engineering

Attachments:

Attachment A By-Law 2017-XXX – Municipal Housing Facilities



20170307MHFA2017
-XXXLindsayStreet.doc

Please ensure that all attachments are forwarded with the signed report.

Phone: 705-324-6401 x 3102

E-Mail: hlee@city.kawarthalakes.on.ca

Department Head: Rod Sutherland, Director, Human Services

Department File:

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW 2017-XXX

A BY-LAW TO AUTHORIZE THE ENTERING INTO OF AN AGREEMENT FOR THE PROVISION OF MUNICIPAL HOUSING FACILITIES IN RESPECT OF THE INVESTMENT IN AFFORDABLE HOUSING FOR ONTARIO PROGRAM (“IAH PROGRAM”) AND THE SOCIAL INFRASTRUTURE FUNDING (SIF) WITH KAWARTHA LAKES HALIBURTON HOUSING CORPORATION FOR THE LINDSAY STREET PROJECT

Recitals

1. The City of Kawartha Lakes is the Service Manager and is authorized to operate and manage housing as well as establish, fund and administer programs for the provision of residential accommodation in its service area under the *Housing Services Act, 2011, as amended*.
2. The *Municipal Act, S.O. 2001, c.25, s.110(1)*, as amended, allows municipalities to enter into agreements for the provision of municipal capital facilities by any person.
3. Ontario Regulation 603/06, as amended, made under the *Municipal Act* allows the council of a municipality to enter into an agreement under subsection 110(1) of the *Municipal Act* for the provision of a variety of enumerated classes of municipal capital facilities.
4. One of those enumerated classes is municipal housing project facilities.
5. Ontario Regulation 603/06, as amended, requires that before a By-law authorizing an agreement respecting municipal housing project facilities is enacted, the municipality must enter into a municipal housing facilities By-law, which must comply with requirements set out in that Regulation;
6. By-law Numbers 2006-262 of the Corporation of the City of Kawartha Lakes providing for municipal housing project facilities was enacted on the 26th day of September, 2006;
7. Section 2.01 of By-laws 2006-262 and 2008-098 permit the Corporation to enter into municipal housing project facilities agreements with housing service providers;
8. Council is desirous of entering into agreements for the provision of municipal housing facilities with Kawartha Lakes Haliburton Housing Corporation in respect of the property located on Lindsay Street in Lindsay, Ontario, namely, a municipal housing project facility.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2017-XXX.

Section 1.00: Definitions and Interpretation

1.01 **Definitions:** In this by-law,

“City”, “City of Kawartha Lakes” or “Kawartha Lakes” means The Corporation of the City of Kawartha Lakes and includes its entire geographic area.

“City Clerk” means the person appointed by Council to carry out the duties of the clerk described in section 228 of the *Municipal Act, 2001*;

“**Council**” or “**City Council**” means the municipal council for the City.

“**Director of Human Services**” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

1.02 **Interpretation Rules:**

- (a) The Schedules attached to this by-law form part of the by-law, and are enforceable as such.
- (b) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.

1.03 **Statutes:** References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

Section 2.00: Agreement

2.01 **Agreement:** The Corporation of the City of Kawartha Lakes is authorized to enter into agreements under subsection 110(1) of the *Municipal Act* with Kawartha Lakes-Haliburton Housing Corporation for the provision of a municipal housing project facility in Lindsay, Ontario consisting of Twenty-four (24) affordable dwelling units.

Section 3.00: Approvals

3.01 **Approvals:** The Municipal Housing Facilities Agreement is the form appended to this By-law as Schedule “A” is approved.

3.02 **Authorization:** The Mayor and Clerk are authorized and directed to sign the Municipal Housing Facilities Agreement substantially in the form appended to this By-law as Schedule “A”, and to affix the City’s corporate seal to them.

Section 4.00: Administration and Effective Date

4.01 **Administration of the By-law:** The Director of Human Services is responsible for the administration of this by-law.

4.02 **Effective Date:** This By-law shall come into force on the date it is finally passed.

By-law read a first, second and third time, and finally passed, this 4th day of April, 2017.

Mayor, Andy Letham

City Clerk, Judy Currins



20170307MHFA
LindsayStreetLindsayv1.docx

**This Municipal Housing Project Facilities Agreement made
this 31st day of March, 2017**

THE CORPORATION OF THE CITY OF KAWARTHA LAKES
(the “City”)

-and-

KAWARTHA LAKES HALIBURTON HOUSING CORPORATION
(the “Housing Provider”)

WHEREAS The Corporation of the City of Kawartha Lakes By-laws 2006-262 (hereinafter referred to as “By-law 2006-262” and the “Housing Facilities By-law”) allows Council to pass by-laws permitting the City to enter into municipal housing project facilities agreements with housing providers pursuant to subsection 110 (1) of the *Municipal Act*, S.O. 2001, c.25 and its regulations (and specifically Ontario Regulations 46/94 and 603/06, as amended) for the provision of municipal housing project facilities;

AND WHEREAS the Housing Provider has agreed to provide a municipal housing facility on Lindsay Street in Lindsay (the “Property”) pursuant to section 110 of the *Municipal Act*, S.O. 2001, c.25, as amended and its regulations (the “*Municipal Act*”) and By-law 2006-262;

AND WHEREAS Council has passed a by-law concurrently with this Agreement, permitting the City to enter into this Agreement, being a municipal housing project facilities agreement and to provide financial contributions to the Housing Provider pursuant to the Investment in Affordable Housing for Ontario (IAH) Program and the Social Infrastructure Fund (SIF) ;

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

Term

1. The term of this Agreement shall commence upon execution of this Agreement and terminate forty (40) years from the date of occupancy of the housing units to be provided as part of the Municipal Housing Project Facility.

Definitions

- 2.(1) Words and phrases used in this Agreement shall have the same meaning as set out in By-law 2006-262, unless otherwise defined in this Agreement.

- (2) The following words and phrases used in this Agreement shall have the following meanings:

“accumulated deficit” means a deficit as reported on the Housing Provider's audited financial statements which has occurred as a result of the Housing Provider reporting more expenses than revenue since its incorporation.

“Administration Agreement” means the Service Manager Administration Agreement between the City and Her Majesty the Queen in Right of Ontario, as Represented by the Minister of Municipal Affairs and Housing for the Affordable Housing Program.

“Affordable Housing Unit” means in respect of all units in the Project, a rental housing unit that is rented at an amount that is less than or equal to eighty percent (80%) of the average market rent (inclusive of utilities but exclusive of parking, telephone, cable and other related fees) as reported by CMHC in their Annual Rental Market Survey for the City of Kawartha Lakes for units of the same size by bedroom count.

“Affordable Housing Program” or “AHP” means the Rental Housing Component of the Investment in Affordable Housing for Ontario Program or the Social Infrastructure Fund, or its successor name.

“Agreement” means this Municipal Housing Project Facilities Agreement.

“auditor” means a public accountant as defined in the *Public Accountancy Act*, R.S.O. 1990, c.P.37, as amended, who performs an audit function pursuant to this Agreement.

“CMHC” means Canada Mortgage and Housing Corporation.

“eligibility criteria” means the criteria set out in the definition of low-income household.

“fiscal year” means the fiscal year of the Housing Provider that is a period of twelve (12) consecutive months commencing on the first day of January and ending on the last day of December.

“income” means all income, benefits and gains, of every kind and from every source including an imputed income for all assets or investments which do not produce interest income but are intended to appreciate in value or are given away, all of which must be declared by a household in its application for rental of an Affordable Housing Unit.

“low-income household” means households eligible to be on or on the Waiting List and has a household income at or below the CMHC approved Household Income Limits (as defined by CMHC or its successor and as such definition is modified by CMHC or its successor).

“Municipal Housing Project Facility” has the meaning contemplated in By-law 2006-262 and for the purposes of this Agreement means the Project.

“Program” means the Investment in Affordable Housing Program.

“Program Delivery and Fiscal Plan” means the plan developed by the City that sets out how the City will use the funding allocations, as more particularly set out in the Administration Agreement.

“Project” means the project described in Schedules “A” and “B”.

“Province of Ontario” means Her Majesty the Queen in Right of Ontario as represented by the Minister of Municipal Affairs and Housing.

“Provincial Contribution Agreement” means the Provincial Contribution Agreement between the Housing Provider and the City for the Affordable Housing Program.

“Term” has the meaning set out in Section 1.

“Waiting List” means The City of Kawartha Lakes centralized waiting list or any successor waiting list.

Schedules

2.3 The following Schedules are an integral part of this Agreement:

Schedule “A”	—	Project
Schedule “B”	—	Project Capital Budget
Schedule “C”		Financial Resources/Benefits

- 3.(1) Subject to any sections of this Agreement which set higher minimum standards, it is a condition of this Agreement that the Housing Provider operate the Project in accordance with all applicable legislation, by-laws, policies, directives and guidelines of all levels of government.
- (2) Without limiting the generality of subsection (1), if there is a conflict between the Municipal Facilities By-laws and a section of this Agreement, the Municipal Facilities By-laws shall prevail, unless the section of this Agreement sets a higher standard, in which case the Housing Provider shall operate the Project pursuant to that section.

Contribution and Construction of the Project

- 4.(1) The Housing Provider participating within the City’s overall capital project shall construct and maintain the Project in the manner described in this Agreement, its attached Schedules and all applicable by-laws, legislation and government policies.
- (2) The Housing Provider shall construct and operate the Project, as described in Schedules “A” and “B” to this Agreement, and subsequent lease and shared facilities agreements between the Housing Provider and the City.

5. Following its compliance with the requirements of the Program and the requirements of the City, the City shall provide the financial resources and relief, pursuant to By-law 2017-XXX, set out in the attached Schedule “C”.
6. The Parties acknowledge that the costs for completion of the Project, which are provided for in the Project capital budget are set out in Schedule “B”.

Communication

- 7.(1) The Housing Provider shall cooperate with the City in any communications initiative of the City concerning the Project including, but not limited to, a sod turning ceremony and an official opening.
- (2) The Parties shall maintain regular and open communication in respect to the construction and operation of the Project and the administration of this Agreement.

Discretion

8. Unless otherwise provided in this Agreement, the Parties shall act reasonably in exercising any discretion under this Agreement, or in providing or refusing any approval or consent concerning this Agreement.

Laws of Province

9. Any obligation in this Agreement is subject to the laws of the Province of Ontario and applicable by-laws of the City, and those laws and by-laws apply to the interpretation of this Agreement, and any reference to a statute or by-law in this Agreement includes any subsequent amendments or replacement and substitution of that statute or by-law.

Schedules

10. The Schedules to this Agreement are an integral part of this Agreement.

Notice

11. Any notice required under this Agreement must be in writing and delivered by personal service or ordinary mail to:
 - (a) the City at the following address:

**26 Francis Street
P.O. Box 9000
Lindsay, Ontario
K9V 5R8**

Attention: Director, Human Services
 - (b) the Housing Provider at the following address:

**322 Kent Street West
P.O. Box 2600
Lindsay, Ontario
K9V 4S7**

Attention: Chief Executive Officer

The Housing Provider and City shall give notice to each other in writing of any change in this information. Any notice under this Agreement shall be deemed to be delivered on the date when personally served or, if mailed, on the third business day after the notice was mailed.

Contact Persons

12. The Housing Provider shall identify in writing one or more contact persons, who are authorized by the Housing Provider to respond on their behalf and who can respond to requests from the City and receive and transmit information from the City and shall give notice to the City of any change in any contact person.

Assignment

13. The Housing Provider shall not assign or transfer this Agreement or any of its responsibilities, rights or obligations under this Agreement without the prior written consent of the City, which may be withheld. A change of control of the Housing Provider shall for the purposes of this Agreement be deemed an assignment which shall require the prior written consent of the City. The City shall have the first right to purchase the Project in accordance with the terms of this Agreement in the event that the Housing Project proposes to assign or transfer this Agreement or the Project (or in fact assigns or transfers this Agreement or the Project).

Municipal Capital Facilities and Project Units

14. The Parties acknowledge that the Project is a municipal housing project facility and, therefore, use of the Project shall be pursuant to section 110 of the *Municipal Act*, S.O. 2001, c.25, as amended and its regulations.
15. (1) The Housing Provider shall ensure that during the term of this Agreement:
 - (a) all Project units (being those units more particularly described in Schedule "A") shall be Affordable Housing Units occupied by low-income households;
 - (b) all Project units shall be provided only to applicants on the Waiting List, subject to their ability to pay the affordable rent for the available housing unit;
 - (c) under no circumstances shall a housing unit in the Project be made available when initially rented to an applicant for housing accommodation at a rental rate that is inconsistent with the definition of Affordable Housing Unit;

- (d) under no circumstances shall a housing unit in the Project be made available to applicants who own a residential property, as determined by the Housing Provider after making all reasonable inquiries; and
 - (e) subject to section 2.07 of By-law 2006-262, housing units that form a part of the Project shall not be rented to the Housing Provider or shareholders or directors of the Housing Provider, or any individual not at arm's length to the Housing Provider or shareholders or directors of the Housing Provider.
- (2) The Housing Provider shall rent all Project units and permit their occupancy only in accordance with this Agreement and By-law 2017-XXX and, where applicable, the *Residential Tenancies Act, 2006, S.O. 2006, c. 17*, as amended.
- 16.(1) All Project units shall be administered by the Housing Provider in accordance with the City's Program Delivery and Fiscal Plan and the guidelines, directives, rules, orders and policies as may be issued from time to time by either the City, the Province of Ontario or CMHC under the Program. To the extent of any conflict between the requirements of the Program or the guidelines, directives, rules, orders and policies of the City, the Province of Ontario or CMHC, the decision of the City as to the priority or paramountcy of any requirement, guideline, directive, rule, order and policy shall be final and binding until such time as it notifies the Housing Provider that such inconsistency has been satisfactorily addressed. The Housing Provider shall verify household income of the applicant prior to renting a Project unit to the applicant by completing and providing to the City, with respect to each applicant, a report in the form titled "Proponent's Initial Occupancy Report", being Schedule "H" to the Contribution Agreement. The Housing Provider shall further complete and provide to the City, on an annual basis, reports in the forms titled "Proponent's Annual Occupancy Report", being Schedule "I" to the Contribution Agreement and the form titled "Proponent's Annual Report", being Schedule "J" to the Contribution Agreement. The form of the Proponent's Initial Occupancy Report, the Proponent's Annual Occupancy Report and Proponent's Annual Report may be modified by the City at any time and from time to time.
- (2) The Housing Provider shall charge and increase rent only in accordance with the terms of this Agreement and as otherwise required by the guidelines, directives, rules, orders and policies as may be issued from time to time by either the City, the Province of Ontario or CMHC under the Program and in accordance with the terms of the "Rental Protocol" which is attached as Schedule "E" to the Contribution Agreement. To the extent of any conflict between any of the guidelines, directives, rules, orders and policies of the City, the Province of Ontario or CMHC, the decision of the City shall be final and binding until such time as it notifies the Housing Provider that such inconsistency has been satisfactorily addressed. The Parties acknowledge that the Rental Protocol is a Schedule to the Administration Agreement.
17. This Agreement is binding on the Housing Provider's heirs, successors and assigns.

Housing Provider Status

18.(1) The Housing Provider shall:

- (a) maintain itself in good standing as an active corporation and in accordance with all applicable laws;
 - (b) not amalgamate, alter, supersede or cancel its articles of incorporation or letters patent or any by-law without the prior written consent of the City; and
 - (c) comply with the City requirements for the Project including, but not limited to, any obligations under any lease associated with the Project and any guidelines, directives, rules, ordinances, orders and policies as may be issued from time to time by the City.
- (2) A breach by the Housing Provider of the terms and conditions of any applicable funding agreement, by-law or lease including the Contribution Agreement shall be deemed to be a default under this Agreement.

Registration On Title

19. All relevant documents, including this Agreement, or notice thereof, shall be publicly registered in such fashion as may be requested or required by the City and in this regard, this Agreement or notice thereof shall be registered against title to the Property.

Amendment of Agreement

20. This Agreement may only be amended on the mutual written consent of the parties provided that such amendment shall be evidenced by a further written document.

Invalidity of Provision of Agreement

21. If any provision of this Agreement should be found by a court of competent jurisdiction to be illegal, invalid or unenforceable, such provision shall not apply and this Agreement shall remain in full force and effect without the provision.

Submission of Documents

22. The Housing Provider shall submit to the City any relevant documents, calculations, statements or information that the City may request from time to time, within the time period specified by the City.

Year-End Reporting

23.(1) The Housing Provider shall provide annually the following to the City:

- (a) the Housing Providers annual occupancy report in the form titled "Proponent's Annual Occupancy Report" being Schedule "I" to the Contribution Agreement and the Housing Providers annual report in the form titled "Proponent's Annual Report", being Schedule "J" to the Contribution Agreement. The form of the

Proponent's Annual Occupancy Report and Proponent's Annual Report may be modified by the City at any time and from time to time.

- (b) audited financial statements, prepared in accordance with generally accepted accounting principles except where otherwise established by City requirements, together with an auditor's report prepared by the auditor of the Housing Provider.
- (2) The Housing Provider shall provide the material set out in subsection (1) within five (5) months of the end of each fiscal year of the Housing Provider.

Statistics

24. The Housing Provider shall, for statistical purposes, supply information as required by the City from time-to-time, provided such information is reasonably available to the Housing Provider, as determined by the City.

Records

25. The Housing Provider shall:
- (a) maintain financial records including, but not limited to, records related to rent collection and tenant income and eligibility verification, in a form satisfactory to the City;
 - (b) permit the City to inspect such records at all reasonable times; and
 - (c) retain all such records that relate to the Project for not less than seven (7) years from the end of the respective fiscal year.

Management

26. The Housing Provider shall manage the Project so that:
- (a) an accumulated deficit is not incurred; and
 - (b) no expenditure is made which is of a material and excessive nature having regard to the normal practice of similar projects providing Affordable Housing Units.

Lending City Payments

- 27.(1) The Housing Provider shall not lend or give away any funds or guarantees or underwrite the repayment of any obligation of a third party that would or could result in an increase in the expenses for the Project.
- (2) Without limiting the generality of subsection (1), the Housing Provider shall not, without the City's prior written consent, which may be withheld, lend or give away any funds granted under this Agreement to any person.

Maintenance

28. The Housing Provider and the City will enter into a subsequent shared facilities agreement which outlines each parties responsibilities and requirements.

Insurance Required During Regular Operations

- 29.(1) After construction has been completed, the Housing Provider shall provide and maintain during the term of this Agreement the following insurance coverage:

(a) Broad Form Commercial General Liability Insurance subject to limits of not less than \$5,000,000.00 for bodily injury, death and damage to property including loss of use thereof, and with a property damage deductible not exceeding \$50,00

and the Broad Form Commercial General Liability insurance shall be in the name of the Housing Provider and shall name The Corporation of the City of Kawartha Lakes as an additional insured thereunder;

- (2) All policies mentioned in subsection (1) shall contain an endorsement to provide the City with (30) days prior written notice of cancellation or of a material change that would diminish coverage.

30. The Housing Provider shall furnish the City, with certificates of insurance as evidence of such insurance prior to execution of this Agreement and upon the anniversary date(s) of all applicable polices described herein. If requested by the City from time to time the Housing Provider is to furnish certified copies of all policies as requested from (a) through (d) above.

31. The Housing Provider may be required by the City to provide and maintain additional insurance coverage related to this Agreement's requirements, under the following circumstances:

- (a) a change in the law;
- (b) an increase in the value of the Project,
- (c) as otherwise required under the Program; or
- (d) as otherwise required by the City.

such that it would lead a prudent owner in similar circumstances to provide and maintain such additional insurance coverage. The Housing Provider shall provide and maintain such additional insurance coverage if, as and when so requested by the City and the City's decision to request such additional coverage shall be final and binding upon the Housing Provider.

32. Any review or approval by the City of any of the Housing Provider's insurance policies shall not relieve the Housing Provider of any responsibility hereunder.

INDEMNIFICATION

33. The Housing Provider shall indemnify and hold harmless the City, its officers, council members, partners, agents and employees from and against all actions, claims, demands, losses, costs, damages, suits or proceedings whatsoever which may be brought against or made upon the City and against all loss, liability, judgements, claims, suits, demands or expenses which the City may sustain or suffer resulting from or arising out of or in connection with this Agreement and/or the Housing Provider's participation in the Program and/or the failure to exercise reasonable care, skill or diligence or omissions in the performance or rendering of any work or service required hereunder to be performed or rendered by the Housing Provider, its agents, officials and employees.

Access

34. The Housing Provider shall permit the City to have access to the Project at all reasonable times.

Payment of Mortgage

35. The Housing Provider shall make all mortgage payments on the due dates and comply with all terms of its mortgages.

Mortgage

- 36.(1) The Housing Provider shall not mortgage, charge or otherwise encumber the Project at any time during the term of the Agreement except with the prior approval of the City which may be granted or withheld at the City's sole discretion.
- (2) Notwithstanding subsection (1) the City hereby consents to the registration of a first (1st) Charge/Mortgage against the Property in the principal amount of \$XXX, which is equivalent to the financial contributions described in the Contribution Agreement and such other amounts contemplated in Section 27(2) as set out in Schedule "C", as determined by the City that are combined in the security contemplated by the Contribution Agreement.
37. Any proceeds of any sale, rebates, refunds or remissions of any tax, duty, cost or expense received by the Housing Provider in relation to the development, capital cost or mortgage of the Project shall, unless otherwise approved in writing by the City, be applied to reduce the mortgages.

Access to Information

38. The Housing Provider shall provide the City with access to all information obtained by the Housing Provider under this Agreement, and shall immediately provide verification of such information if requested by the City.

39. The Parties acknowledge that, where applicable, this Agreement and its subject matter are subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56, as amended.

Enforcement of Tenants' Obligations

40. The Housing Provider shall take appropriate and reasonable action to enforce the obligations under the Tenants' lease provisions.

General

41. In order to assist applicants for housing, the Housing Provider shall:
- (a) take appropriate steps to enable members of the public to obtain information about accommodation in the Project of the Housing Provider;
 - (b) provide written information to applicants about the eligibility criteria and the policies and procedures of the Housing Provider in relation to placement of applicants, the transfer of tenants and the reconsideration of decisions; and
 - (c) not charge applicants any fee for providing the information or for receiving or processing their application for housing.

Audit

- 42.(1) The City may cause its employees or agents to conduct an audit, investigation or inquiry in relation to the Housing Provider and the Project, and the Housing Provider shall cooperate with the employees or agents of the City and provide full and free access to staff, projects, documents and records as determined by employees or agents of the City.
- (2) Within sixty (60) days of the completion of any final audit report or other report under subsection (1) the City shall provide a copy of the reports to the Housing Provider unless the reports or circumstances identified in the audit report have been referred to a law enforcement agency for inquiry.

Dispute Resolution

- 43.(1) The Housing Provider and the City agree that alternate dispute resolution processes such as mediation, appointment of a neutral third party evaluator or arbitration may be preferable to litigation as a way to resolve disputes that may arise under this Agreement and they agree to give good faith consideration to having resort to an alternate dispute resolution process before initiating legal or other proceedings to deal with any such disputes.
- (2) The City and the Housing Provider agree that nothing contained in the subsection (1) shall affect or modify the rights and obligations of the City and the Housing Provider under the event of default and early termination provisions in of this Agreement.

Breaches

44. In addition to other instances of non-compliance set out in this Agreement, the following actions by the Housing Provider shall be a breach of this Agreement:
- (a) the Housing Provider becomes bankrupt or insolvent or becomes subject to the provisions of the *Bankruptcy and Insolvency Act* R.S.C. 1985, c.B-3 or any other Act for the benefit of creditors, or goes into liquidation either voluntarily or under an order of a court of competent jurisdiction or make a general assignment for the benefit of its creditors or enters into an arrangement or compromise or otherwise acknowledges its insolvency;
 - (b) the Housing Provider has failed to comply with any of its obligations or is in default under this Agreement or the Contribution Agreement, including the Schedules attached hereto;
 - (c) the Housing Provider has incurred an accumulated deficit or an expenditure deemed by the City in its sole opinion to be material and of an excessive nature, having regard to the normal practices of similar Housing Provider corporations;
 - (d) the Housing Provider fails to cause all of the Affordable Housing Units to remain occupied by eligible low-income households throughout the Term; or
 - (e) the Housing Provider has failed to manage the Project adequately, as a prudent landlord and/or owner would, as determined by the City acting reasonably.

Remedies

- 45.(1) In addition to other remedies set out in this Agreement, and subject to subsection (3), if the Housing Provider is in breach of this Agreement the City may exercise any of the following remedies in any combination that the City chooses in its sole discretion, and the remedy may be exercised for such time as the City deems appropriate:
- (a) require the Housing Provider to provide additional information or documents to the City;
 - (b) if applicable, reduce, suspend or discontinue any payment payable under this Agreement at the City's discretion;
 - (c) termination of the Housing Provider's rights under the Agreement;
 - (d) require the Housing Provider to pay to the City the entire amount of the benefits conveyed under the Agreement, as set out in Schedule "C", together with any applicable costs and interest charged at the rate charge under the loan provided by the City for the construction of the Project and take-out financing;
 - (e) pursue any remedy available at law including, but not limited to injunctive relief, specific performance and damages;

- (f) terminate this Agreement;
- (g) perform any obligation of the Housing Provider by retaining a third party or authorizing City staff to perform the obligation and the cost of this shall be payable by the Housing Provider forthwith on demand; and
- (h) appoint or seek the appointment of a manager and/or receiver, whether an officer, employee or agent of the City or not (“Receiver”).

Delay

- (2) Waiver or delay in exercising a remedy shall not prevent the City from exercising the remedy at a later time for any breach of this Agreement.

Limitations on Remedies

- (3) Subject to subsection (4), the City shall give the Housing Provider written notice of any breach, specifying particulars, and if the Housing Provider does not remedy or commence remedying the breach to the City’s satisfaction, in its sole discretion, within thirty (30) days from the date the notice is delivered and thereafter proceed diligently until such breach has been remedied, the City may exercise the remedies set out in subsection (1).

Emergencies

- (4) The City shall not be required to comply with subsection (3) if by doing so, in the City’s sole judgement, would materially worsen the situation, would negatively affect the City’s rights under this Agreement, or would cause irreversible damage to the City’s interests.
- (5) The City shall not seek the appointment of a Receiver pursuant to clause (1)(h) unless
 - (a) the City has determined, in its sole discretion, that there are serious financial matters that could result or have resulted in the Housing Provider being unable to pay its debts as they become due; or
 - (b) the City has determined, in its sole discretion, that there continue to exist serious financial matters that could result or have resulted in the Housing Provider being unable to pay its debts as they become due and it is not feasible to reinstate the Housing Provider as a self-governed entity retaining substantial control of the management of the Project.

Equitable Remedies

- (6) The Housing Provider, without limiting any right to dispute whether there is a breach of the Agreement or apprehended breach:
 - (a) acknowledges that should it be in breach of this Agreement, damages will not always be an adequate remedy; and
 - (b) consents, to the granting by the Court, both temporarily and permanently, of injunctions and orders for specific performance and to the appointment of Receivers where sought by the City.

Receivership

- (7) When a Receiver is appointed by the City pursuant to clause (1)(h) the Receiver shall have the power to, with respect to the Project:
- (a) take control, direction and possession, or any of them, of a project or the Project, the revenue and the assets of the Housing Provider the operation and books, records and accounts of the Housing Provider or any part of them;
 - (b) take control and direction of the employees and agents of the Housing Provider;
 - (c) receive and recover and use all revenues and assets of the Housing Provider;
 - (d) incur or pay debts or liabilities;
 - (e) complete the construction of the Project and maintain, operate and repair the Project; and
 - (f) execute and prosecute all suits, proceedings and actions which the Receiver considers necessary for the proper protection of the Project or a project to defend all suits, proceedings and actions against the Housing Provider or the Receiver, to appear in and conduct the prosecution and defence of any suit, proceeding or action, then pending or thereafter instituted and to appeal any suit, proceeding or action.

Change of Receiver

- (8) The City may:
- (a) at any time and from time-to-time change, terminate or renew the mandate of the Receiver or replace or reinstate the Receiver, but the Housing Provider shall have no power to appoint, replace, reinstate or remove, or change, terminate or renew the mandate of the Receiver; and
 - (b) fix the reasonable remuneration of the Receiver who may deduct the same out of the revenues of the Housing Provider.

Termination of Receivership

- (9) A receivership appointed under clause (1)(h) shall terminate at the end of the one hundred and eightieth (180th) day after it becomes effective or such shorter or longer period of time as determined by the City in its sole discretion, unless the Court directs otherwise within that time and the Court may vary the terms of the appointment.

Reinstatement of Housing Provider

- (10) Without limiting any rights of the City under the Agreement, the City acknowledges that it is the intention of the City to reinstate the Housing Provider whenever feasible, as determined by the City, as a self-governed entity retaining substantial control of the

management of the Project, but its shall not be liable or responsible for any losses or damages suffered by the Housing Provider by reason of its failure to do so.

Agent of Housing Provider

- (11) The Receiver shall be deemed to be the agent or attorney of the Housing Provider and the City shall not be responsible for the Receiver's acts or omissions.

Ratification and Release

- (12) The Housing Provider:
- (a) undertakes to ratify and confirm whatever the Receiver may do pursuant to the Receiver's mandate; and
 - (b) except for accounting for money and other property actually received by the Receiver, releases and discharges the City and the Receiver and everyone for whom either of them would be responsible from every claim of every nature which may arise to the Housing Provider or any person by reason of anything done or not done by the City or the Receiver or anyone for whom either of them would be responsible unless such claim be the direct and proximate result of gross negligence, dishonesty or fraud.

Additional Provisions

- 46.(1) The Housing Provider shall, if necessary, assist and cooperate with the City if the City requires cooperation in fulfilling its obligations under the Administration Agreement (as contemplated in paragraph in paragraph 21(2) of this Agreement).
- (2) Without restricting the generality of subsection (1), the Housing Provider shall:
- (a) cooperate and assist the City's monitoring of whether all of the Project's Development Activities, which for the purposes of this Section, is as defined in the Contribution Agreement, are carried out as required by the Contribution Agreement, the Administration Agreement or as otherwise required by the Affordable Housing Program or this Agreement;
 - (b) provide all information requested by the City for the City to monitor the subject matter described in clause (a), as described in the Administration Agreement or as otherwise required by the Affordable Housing Program or this Agreement;
 - (c) provide documentation requested by the City which shows that occupancy of all units in the Project is permitted as required by the Affordable Housing Program or this Agreement;
 - (d) inform the City in writing of the following matters as soon as it becomes aware of them or as otherwise required by the Affordable Housing Program:

- (i) any failure of the Housing Provider to carry out the development activities required in the Affordable Housing Program or any guidelines, directives, rules, orders or policies of the Affordable Housing Program or any failure to carry out such development activities in such a manner and within such time periods as are set out in the Affordable Housing Program or any guidelines, directives, rules, orders or policies of the Affordable Housing Program or otherwise set by the City;
 - (ii) actual or constructive notice of any construction lien affecting the Project;
 - (iii) any breach of this Agreement or any breach of the Contribution Agreement;
 - (iv) the Housing Provider becoming bankrupt or insolvent or taking the benefit of any act now or hereafter in force for bankrupt or insolvent debtors or filing any proposal or making any assignment for the benefit of creditors or any arrangement or compromise;
 - (v) the appointment of a receiver or a receiver and manager for all or a portion of the Project; and
 - (vi) the taking of any steps or actions or the institution of any proceedings by the Housing Provider or by any other party, including, without limitation, any court or government body of competent jurisdiction for the dissolution, winding up or liquidation of the Housing Provider or its assets.
- (3) Without restricting the generality of subsection (1), the Housing Provider shall assist the City by providing all information and information necessary for the City to fulfill its reporting obligations under the Administration Agreement.
- (4) The definitions in the Administration Agreement and Contribution Agreement shall apply to like terms in this Agreement unless otherwise specifically defined. Where pursuant to the Administration Agreement the Province of Ontario has any right or remedy as against the City or the Housing Provider in respect of the Project, the City shall be entitled to exercise, at its sole discretion, the same remedy *mutatis mutandis*, as against the Housing Provider. To the extent of any conflict between the rights of the City pursuant to this Agreement or any right that the City wishes to pursue as against the Housing Provider described in either the Administration Agreement or Contribution Agreement, the City shall be the sole arbiter of determining which right and remedy it wishes and is entitled to pursue and the decision of the City shall be final and binding on the parties.
- 47.(1) The Parties acknowledge that the disbursement of funds to the City pursuant to the Administration Agreement and the AHP Program are subject to the necessary appropriations from the Federal Parliament and Provincial Legislature and the City. To

the extent that the appropriations are not sufficient to fulfil the obligations under this Agreement and in particular the obligations of the City, Federal Parliament or Provincial Legislature, the City, Federal Parliament and Provincial Legislature are hereby relieved of any liability, loss or damages incurred by the Housing Provider directly or indirectly incurred or suffered as a result of such appropriations being insufficient.

(2) The City shall not be liable if there are no or insufficient funds available pursuant to subsection (1).

48. No member of

(a) the House of Commons or Senate of Canada;

(b) the Legislative Assembly of Ontario; or

(c) the municipal council, municipal agency, board or commission of the City of Kawartha Lakes,

shall be admitted to any share or part of any contract, agreement or commission made pursuant to this Agreement or to any benefit arising therefrom, including, without limitation, any contract, agreement, or commission arising from or related to the Affordable Housing Program.

49. Time shall be of the essence in this Agreement.

The remainder of this page was intentionally left blank

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized in that behalf on the date below indicated.

SIGNED, SEALED AND DELIVERED

**THE CORPORATION OF THE CITY OF
KAWARTHA LAKES**

Date: _____

_____ per: Andy Letham, Mayor

Date: _____

_____ per: Judy Currins, Clerk

We have the authority to bind the corporation

**KAWARTHA LAKES HALIBURTON
HOUSING CORPORATION**

Date: _____

_____ per: Hope Lee, CEO

I have the authority to bind the corporation

SCHEDULE "A"

Lindsay Street, Lindsay - Project Description

- 1. Project Location:** The property is located in the Town of Lindsay in the City of Kawartha Lakes. The Housing Provider has been selected by the City of Kawartha Lakes to receive and to participate in IAH as authorized by Council, to assist in the construction of Affordable Housing Units.
- 2. Project Unit Mix:** The Housing Provider shall use the funding which is the subject of this agreement toward twenty-four (24) units in this development.
- 3. Affordable Rents:** For the purposes of this Agreement, no less than 24 of the project units shall have rents that meet the definition of affordable housing as described in this agreement.
- 4. Substantial Performance:** The Housing Provider shall ensure that the Affordable Housing Units are ready for occupancy by tenants in accordance with applicable laws on or before January 1, 2019.

Schedule "B"
Project Capital Budget

Land	\$0
Soft Costs	\$148,340
Construction Costs	\$3,851,660
	\$4,000,000

SCHEDULE "C"**Financial Benefits Extended pursuant to the Agreement and the Municipal
Housing Project Facilities By-law**

Item	Estimated Value
Planning Applications	\$2,404
Development Charges	\$215,568
Building Permit Fees	\$20,494
Landfill Tipping Fees	\$50,000
DAAP Fees	\$1,369
Service Connection Fees	\$3,900
Entrance Permit Fees	\$54