

**CITY OF TORONTO**

- and -

**PROPONENT**

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**CONTRIBUTION AGREEMENT**

**[35 Bellevue Avenue/11 Brock Avenue], Toronto**

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THIS AGREEMENT is made effective as of [DATE]

**BETWEEN:**

**CITY OF TORONTO**  
(the "City")

- and -

**PROPONENT**  
(the "Proponent")

## **Background**

- A. At its meeting held on July 19, 20, 21 and 22, 2022, Council approved the issuing of a request for proposals seeking an operator for the new affordable housing being developed at [35 Bellevue Avenue/11 Brock Avenue], Toronto, as further defined in this Agreement (the "**Project**") and the entering into of a municipal capital facility agreement with the successful proponent of that request for proposals;
- B. The Proponent submitted a proposal in response to the City's RFP on [DATE] (the "**Proposal**") and was selected by the City to operate the Project;
- C. Section 252 of the *City of Toronto Act, 2006*, S.O. 2006 c. 11, Sch. A (the "Act"), provides that the City may enter into agreements for the provision of a municipal capital facility by any person and that the City may exempt from taxation for municipal and school purposes land or a portion of land on which municipal capital facilities are located;
- D. Ontario Regulation No. 598/06, as amended, prescribes municipal facilities used for the provision of affordable housing as eligible municipal capital facilities for the purpose of Section 252 of the Act;
- E. The City of Toronto passed By-law No. 183-2022 pursuant to the provisions of Section 252 of the Act and Ontario Regulation 598/06 to set out a definition for affordable housing and policies regarding eligibility for new affordable housing;
- F. Funding for the Project has been secured by the City of Toronto; and
- G. The parties wish to enter into this Agreement to set out the terms and conditions of the operation of the Project and the financial assistance and benefits, including rent supplements, to be provided to the Proponent.

**NOW THEREFORE** in consideration of the mutual covenants and other terms and conditions in this Agreement and the sum of Two Dollars (\$2.00) of lawful money of Canada now paid by each of the Parties to the other (the receipt and sufficiency whereof are acknowledged), the Parties agree as follows:

## **ARTICLE 1 INTERPRETATION**

**1.1** In this Agreement and Schedules attached hereto, the following terms shall have the following respective meanings:

**“Access Plan”** means a policy established by the Proponent and approved by the Executive Director, Housing Secretariat which policy shall specify how tenants are to be selected from among People and Populations who are Vulnerable, and who are or otherwise would be, in Severe Housing Need and how information about such process is disseminated to the public;

**“Affordability Period”** means the term of the Lease;

**“Affordable Housing”** means rental housing that is operated in accordance with the terms of this Agreement;

**“Average Market Rents” or “Average Rents” or “AMR”** means average monthly Toronto-wide rents by unit type as determined in the end-of-year survey of City-wide rents for the prior calendar year published by CMHC; if CMHC does not publish a survey of City-wide rents, then “Average Market Rents” for the calendar year shall be City-wide average rents as determined by the City acting reasonably;

**“Benchmark Market Rent”** for each Housing Benefit Unit means 80% of the Average Market Rent current at the time of First Occupancy and thereafter the Benchmark Market Rent attributable to that Housing Benefit Unit shall be the lesser of:

- (i) The prior year Benchmark Market Rent attributable to the Housing Benefit Unit increased by the Rent Increase Guideline for the current year or the CPI Adjustment, in accordance with Section 9.1 of this Agreement; or
- (ii) 80% of the Average Market Rent current at the time.

**“Business Day”** means a day other than a Saturday, Sunday or any other day which the City has elected to be closed for business;

**“City Benefits”** has the meaning given to it in Section 4.1.

**“City Incentives”** means the property tax exemption outlined in Subsection 4.1(b);

**“CMHC”** means the Canada Mortgage and Housing Corporation;

**“CPI Adjustment”** has the meaning given to it in Section 9.1;

**“Deputy City Manager”** means the Deputy City Manager, Development and Growth for the City of Toronto and includes such person's designate or successor, if any;

**“Director, Housing Stability Services”** means the Director responsible for the City's Housing Stability Services unit and includes such person's designate or successor, if any;

**“Disposition”** means any sale, assignment, transfer, conveyance, lease, licence or other disposition of any nature or kind whatsoever of any property or of any right, title or interest in or to any property;

**“Eligible Household”** means a person or group of persons who occupy a Housing Benefit Unit in the Project and meet the eligibility criteria to receive rent-geared-to-income assistance set out in the *Housing Services Act, 2011*, S.O. 2011, c. 6, Sched. 1;

**“Executive Director, Housing Secretariat”** means the Executive Director responsible for the administration of the City's Housing Secretariat and includes such person's designate or successor, if any;

**“First Occupancy”** means the first day of the first month immediately following the month in which a Unit is rented for the first rental period following commencement of the Lease;

**“Household Income”** means total household income from all sources of all persons who reside in a Unit or who will reside in a Unit if it is rented to them as defined in the City's Affordable Rental Housing Administration Manual, as may be amended or replaced from time to time;

**“Housing”** means residential accommodation and facilities, common areas and services used directly with the residential accommodation. Housing does not include commercial or institutional premises, social or recreational services, and services or facilities related to mental or physical health care, education, corrections, food services, social support or public recreation other than those services described in ARTICLE 3 hereof;

**“Housing Access System”** means the City's centralized housing access system(s) including the Coordinated Access System, Centralized Waiting list, and other affordable housing access system(s) as may be determined by the City and approved as part of the Access Plan ; and which includes the allocation and administration of Housing Benefits

**“Housing Benefits”** means a financial benefit provided for or on behalf of a tenant to make up the difference between the rent-geared-to-income payable by a tenant, calculated as 30% of the tenant's Household Income or the shelter allowance of their Ontario Works or Ontario Disability Support Program Benefits, and the Benchmark Market Rent;

**“Housing Benefit Unit”** means a Unit which is occupied by or allocated to an Eligible Household and any unit replacing such Housing Benefit Unit from time to time in accordance with this Agreement;

**“Housing Benefits Funding”** means the provision of Housing Benefits to Eligible Households occupying Units in the Project as specified in Schedule C;

**“Indemnified Parties”** has the meaning given to it in Section 11.1;

**“Initial Income Limit”** means Household Income at or below four (4) times the annualized Monthly Occupancy Costs;

**“Initial Occupancy”** means when a new tenant occupies a Unit regardless of whether it was previously rented;

**“Lease”** means the lease for the Premises to be entered into by the Proponent and the City;

**“MFIPPA”** means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990 c. M. 56;

**“MFIPPA Protected Information”** means any “Personal Information” as defined in MFIPPA;

**“Monthly Occupancy Costs”** means the total of the monthly rent payable to the Proponent for a Unit including the cost of hydro, heat, water and hot water; and Monthly Occupancy Costs do not include charges for applicable taxes, parking, cable, internet, telephone or any other like charges;

**“Notice”** has the meaning given to it in Section 18.1;

**“Parties”** means the City and the Proponent and their respective successors and permitted assigns; and **“Party”** means any one of the Parties;

**“People and Populations Who Are Vulnerable”** means the groups set out in Schedule “F”;

**“Person”** means any individual, partnership, corporation, trust, unincorporated organization, municipality, government, or governmental agency or any combination thereof;

**“Premises”** has the meaning given to it in ARTICLE 3;

**“Project”** means the Affordable Housing to be operated by or on behalf of the Proponent in accordance with the terms and conditions of this Agreement, as outlined in ARTICLE 3;

**“Proposal”** means the Proponent’s proposal in response to the RFP dated [DATE] and any attachments, correspondence or other documentation provided by the Proponent to the City during the RFP process, including any clarification letters;

**“RFP”** means the City’s request for proposals “Request for Proposals for Non-profit Housing Provider(s) to Lease and Operate Affordable Housing with Support Services: 35 Bellevue Ave. and 11 Brock Ave.” dated [DATE], inclusive of all parts and appendices and any addenda that may be issued by the City;

**“Receiver”** means a manager and/or receiver for the Project appointed pursuant to Subsection 13.2(c);

**“Rent Increase Guideline”** means the prevailing rent increase guideline established each calendar year pursuant to the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17, or any successor legislation;

**“Severe Housing Need”** is a subset of core housing need comprising of households that pay 50% or more for their current dwelling. A household is said to be in core housing need if its housing falls below at least one of the adequacy, affordability or suitability standards and it would have to spend 30% or more of its total before tax income to pay the median rent of alternative local housing that is acceptable;

**“Spouse”** means two individuals that refer to themselves as “spouses” and are considered as such for the purposes of determining affordable housing eligibility. This includes two individuals who live in the same unit if:

- the social and familial aspects of the relationship amount to cohabitation; and

- one individual provides financial support to the other; or
- the individuals have a mutual agreement or arrangement regarding their financial affairs.

**“Support Services Agreement”** means any support services agreement to be entered into by the Proponent and the City regarding the funding of support services provided to residential tenants at the Project;

**“Tax Exemption”** shall have the meaning given to it in Subsection 4.1(b);

**“Transfer”** means a Disposition of the Project or Premises or any transaction whereby the rights of the Proponent under this Agreement or any part, are transferred, and includes any transaction or occurrence whatsoever (including, but not limited to, the entering into of a mortgage, receivership proceedings, seizure by legal process and transfer by operation of law);

**“Transferee”** means the Person or Persons to whom a Transfer is or is to be made;

**“Unit”** means a unit of Affordable Housing in the Project; and

**“Utility Allowance”** means the average amount of separately metered utility costs, determined by the City and published on the City’s web site.

**1.2** This Agreement, the Schedules incorporated into it by reference, the Proposal and the RFP, and any documents entered into pursuant to this Agreement, constitutes the entire agreement between the Parties with respect to the subject matter hereof and all other prior agreements, representations, statements, negotiations and undertakings with respect to such subject matter are superseded hereby.

**1.3** Any reference in this Agreement to a statute shall be deemed to include any regulations made under the statute, any amendments made from time to time and any successor legislation.

**1.4** The following schedules form part of this Agreement:

Schedule "A"	Access Plan Template
Schedule "B"	Proponent's Annual Occupancy Report
Schedule "C"	Units Receiving Housing Benefits
Schedule "D"	Support Services Plan
Schedule "E"	Yearly Attestation Report
Schedule "F"	Definition of People and Populations Who Are Vulnerable
Schedule "G"	Declaration of Compliance with Anti-Harassment / Discrimination Legislation & City Policy

## **ARTICLE 2 GENERAL**

**2.1** It is understood and agreed that this is a municipal capital facility agreement pursuant to Section 252 of the *City of Toronto Act, 2006*, S.O. 2006 c. 11, Sch A and a municipal housing

project facility agreement pursuant to the City's By-law No. 183-2022 "To enact a new Municipal Housing Facility By-law and to repeal By-law No. 72-2022."

**2.2** The documents comprising this Agreement will be complimentary and what is required by any part of them shall be considered as being required by the whole. In the event of a conflict or inconsistency, the documents comprising this Agreement shall be interpreted in accordance with the following order of precedence:

- (a) The body of this Agreement as executed by the parties;
- (b) The Schedules to this Agreement;
- (c) The Proposal;
- (d) The RFP; and
- (e) Any amendments to the above noted documents made in accordance with the terms of this Agreement shall take precedence over earlier dated documents.

These documents are incorporated into and form part of the Agreement, even if not physically attached hereto. The Proponent acknowledges receipt of all such documents.

**2.3** All references in this Agreement to section numbers are references to sections of this Agreement unless otherwise stated.

### **ARTICLE 3 THE PROJECT**

**3.1** The Proponent agrees to operate the Project as Affordable Housing for the Affordability Period, as detailed below:

Location:	[35 Bellevue Avenue/11 Brock Avenue], Toronto PIN XXXXXXXXXXXX [Legal Description]  as may be more particularly described in the Lease (the "Premises")
Affordable Housing:	[Bellevue: 67 studio Units/Brock: 40 studio Units]
Monthly Occupancy Costs:	An overall average at or below 80% Average Market Rent with no one Unit exceeding 100% AMR.

### **ARTICLE 4 CITY BENEFITS**

**4.1 City Benefits.** The City Benefits to be provided to the Proponent shall be comprised of the following (collectively, the "**City Benefits**"):

#### **Lease**

- (a) **Lease.** The City will enter into, concurrently with the execution of this Agreement, a lease for the Premises at below market rent for a period of fifty (50) years, less a day;

### **City Incentives**

- (b) **Property Tax Exemption.** Subject to Council approval being obtained, the City shall exempt the Project from taxation for municipal and school purposes for the duration of the Affordability Period (the "**Tax Exemption**"). The Tax Exemption cannot be implemented until the City has received all the information and documentation set out in 4.3, as well as further information and documentation as it may reasonably require in order to provide the Municipal Property Assessment Corporation with the information it requires;

**4.2 Conditions Precedent.** The obligation of the City to enter into the Lease with the Proponent, or to provide the tax exemption listed in Section 4.1 is conditional upon the Proponent satisfying the following conditions, unless waived in writing by the City:

- (a) the Proponent shall have provided certified copies of such corporate documents of the Proponent as the City may reasonably require including, without limitation, letters patent or articles of incorporation, and a certified copy of the directors' resolution authorizing the execution of this Agreement;
- (b) the Proponent shall have provided proof of the insurance required pursuant to the terms of the Lease, with the City as a joint loss payee;
- (c) the Proponent shall have provided the City with an up-to-date operating budget satisfactory to it;
- (d) the Proponent shall have provided an approved Access Plan to the City;
- (e) the Proponent shall have completed, signed and delivered a "Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy" form, a copy of which is attached as Schedule "G", to the City;
- (f) the Proponent shall have provided the most recent Yearly Attestation Report in accordance with Subsection 7.1(g);
- (g) the Proponent shall have provided any information the City may reasonably require to satisfy the requirements of any Government Authority with respect to the tax exemption;
- (h) the representations and warranties of the Proponent set out in ARTICLE 6 hereof shall be true and correct and, if requested by the City, the Proponent shall have delivered a certificate or certificates to such effect;
- (i) the Proponent shall not be in default (or being in default, the time provided for curing such default has not yet elapsed) under any of the terms and conditions of this Agreement, or any agreement with respect to the construction, development or operation of the Project, all of which shall be in full force and effect; and
- (j) nothing shall have occurred which, in the sole opinion of the Executive Director, Housing Secretariat could reasonably be expected to have a material adverse

effect on the operation of the Project or the business, property, assets, liabilities, conditions (financial or otherwise) or prospects of the Proponent.

**4.3 Conditions Precedent – Tax Exemption.** While the Tax Exemption for the Project will be effective as of the date of First Occupancy or the date of the first meeting of Toronto City Council following the date of First Occupancy, whichever is later, taxes will be payable until the following information and documentation is provided to the City and the tax roll has been amended:

- (a) the anticipated rents for all of the units;
- (b) a copy of a typical lease/occupancy agreement;
- (c) information about auxiliary income, i.e. laundry, convenience store located on the property;
- (d) confirmation as to whether the rents include heat, hydro and water; and
- (e) any other documentation or information the City may reasonably require to satisfy the requirements of any Governmental Authority for the purpose of implementing the Tax Exemption.

The Proponent acknowledges that failure to provide the information required in this Section could result in the effective date of the Tax Exemption, being later than the date of First Occupancy. The City is not responsible for any costs incurred by the Proponent as a result of a delay in the enactment of the Tax Exemption by-law.

**4.4 No Waiver.** The City providing any City Benefits prior to the fulfillment of one or more of the conditions set forth herein shall not constitute a waiver by the City of any such condition, and the City reserves the right to require the fulfillment of each condition prior to the providing of any further City Benefits.

**4.5 Conditions Solely for the Benefit of the City.** All conditions precedent are solely for the benefit of the City, its successors and assigns, and no other person shall have standing to require satisfaction of any condition and no other person shall be deemed to be a beneficiary of any such condition, any and all of which may be freely waived in whole or in part by the City at any time the City deems it advisable to do so.

## **ARTICLE 5 PAYMENT OF HOUSING BENEFITS**

**5.1 Housing Benefits Funding.** Subject to this ARTICLE 5, for the duration of the Affordability Period, the City will provide Housing Benefits for the number of Units specified in Schedule "C" and the Proponent agrees to make available the number of Units specified in Schedule "C" as Housing Benefit Units.

**5.2 Requests for Housing Benefits.** The Proponent shall submit to the City its requests for Housing Benefits, together with all required supporting reconciliation statements, in a form satisfactory to the City and at regular intervals established by the City, which intervals shall not be more often than monthly and not less often than annually. Following its review and approval of such requests and supporting statements, the City will make any necessary adjustments to its applicable regular Housing Benefits payments to the Proponent.

**5.3 Interim Payments.** Until such time as the City and the Proponent agree that payments should be paid in accordance with Section 5.4, the Proponent will provide an invoice for each occupied Housing Benefit Unit and the City shall pay the invoice in accordance with the terms of invoice.

**5.4 Payments and Annual Reconciliation.** The City shall pay to the Proponent, during the term of this Agreement, an estimate of the Housing Benefits for each Unit for which Housing Benefits are to be paid, on the first (1st) day of each month following the month in which the term of the residential lease for such Unit commences. Payments will be made for each and every month of the term of each residential lease. The City will reconcile the actual Housing Benefits costs at the end of each fiscal year.

**5.5 Provision of Housing Benefits Funding subject to Approval of Council.** Notwithstanding City's obligation to provide any Housing Benefits Funding under this Agreement, this obligation does not arise if, at the time when a payment under this Agreement becomes due, the Council of the City of Toronto has not approved an operating budget that is sufficient and constitutes lawful authority for making the Housing Benefits payment. The City may reduce or terminate any Housing Benefits payment under this Agreement in response to the reduction of program funding levels in respect of the program under which this Agreement was made or otherwise, as evidenced by any by-law. City will not be liable for any direct, indirect, consequential, exemplary or punitive damages, regardless of the form of action, whether in contract, tort or otherwise, arising from any such reduction or termination of Housing Benefits Funding.

**5.6 Vacancy where Less than One Month's Notice.** If a Unit has been vacated or abandoned by an Eligible Household without at least one (1) month's prior notification to the Proponent (other than by an Eligible Household who received a notice to vacate), the City will pay to the Proponent, while the vacancy continues, an amount not exceeding 100% of Average Monthly Rent for the month immediately following that in which the vacancy occurs. If the Unit remains vacant despite diligent efforts by the Proponent to lease same, the City will pay an amount not exceeding 50% of the Average Monthly Rent for the second month following the occurrence of such vacancy. The City will make no further payments thereafter with respect to the Unit until it is leased to and occupied by an Eligible Household.

**5.7 Vacancy where at Least One Month's Notice.** If a vacancy of a Unit occurs following at least one (1) month's prior notification given by an Eligible Household or occurs by reason of a notice of termination or an eviction served or carried out by the Proponent, the City will pay to the Proponent an amount not exceeding 50% of the Average Market Rent for the month immediately following the vacancy, but shall make no further payments thereafter until it is leased to and occupied by an Eligible Household.

**5.8 Reconciliation Statements.** The Proponent shall submit to the City its requests for Housing Benefits, together with all required supporting reconciliation statements, in a form satisfactory to the City and at regular intervals established by the City, which intervals shall not be more often than monthly and not less often than annually. Following its review and approval of such requests and supporting statements, the City will make any necessary adjustments to its applicable regular Housing Benefits payments to the Proponent to account for any overpayment or underpayment of Housing Benefits as should on the reconciliation statement.

**5.9 Damage to Unit.** If any Unit is damaged by fire, explosion, flood or any other unavoidable catastrophe to such an extent as to render it uninhabitable, the Proponent shall proceed to repair, restore and make habitable the damaged Unit in accordance with the provisions of the Lease. The Proponent acknowledges and agrees that the payment of Housing Benefits by the City to the

Proponent with respect to any such damaged Unit shall cease as long as such Unit is uninhabitable.

**5.10 Termination of Housing Benefits Funding:** If Housing Benefits Funding is terminated pursuant to this Agreement, the Housing Provider shall permit the Eligible Households occupying Units at the time such Housing Benefits Funding is terminated to remain in occupancy of their Units until their tenancies are terminated or until they cease to qualify for Housing Benefits, whichever first occurs, and the same conditions as to payment of the Housing Benefits by the City, and the provisions of this Agreement, insofar as they apply to such Eligible Households, shall remain binding on both Parties as if this Agreement had not been terminated.

## **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

**6.1** The Proponent represents and warrants that,

- (a) it is duly incorporated under the laws of Ontario or Canada;
- (b) the Board of Directors of the Proponent, and if required by the Proponent's bylaws, its members, have authorized the Proponent to enter into this Agreement and such authorization has not been withdrawn;
- (c) it shall not alter, supersede or cancel its articles of incorporation, letters patent or other constating document in any way which would affect its ability to perform its obligations under this Agreement without the prior written consent of the City;
- (d) no member of the House of Commons, the Senate of Canada, or the Council of the City or members of any of its agencies, boards or commissions shall be entitled to any share or part of this Agreement or to any benefit to arise therefrom; and
- (e) no individual to whom the City's Code of Conduct for Members of Council, the City's Re-Employment of Former City Employees' Policy or the Employee Conflict of Interest Policy apply, shall derive a direct benefit from this Agreement.

**6.2** The Proponent agrees that the City shall be entitled to rely at all times on the representations and warranties set out in this Article.

## **ARTICLE 7 OBLIGATIONS OF THE PROPONENT – GENERAL**

**7.1** The Proponent shall:

- (a) comply with all terms of the Lease;
- (b) ensure First Occupancy of the Project is reached by no later than [DATE], or such other date as determined by the Executive Director, Housing Secretariat, acting reasonably, on written Notice to the Proponent;
- (c) ensure the Project has reached 25% occupancy by [DATE] or such other date as determined by the Executive Director, Housing Secretariat, acting reasonably, on written Notice to the Proponent;

- (d) ensure the project has reached full occupancy by no later than [DATE], or such other date as determined by the Executive Director, Housing Secretariat, acting reasonably, on written Notice to the Proponent;
- (e) comply with all applicable federal, provincial and municipal laws, regulations and by-laws;
- (f) no later than sixty (60) days prior to First Occupancy, provide an Access Plan approved by the Executive Director, Housing Secretariat, in the form of the report attached as Schedule "A";
- (g) no later than thirty (30) days after December 31 of each year commencing on December 31, 2024 for the duration of the Affordability Period, provide to the City the Yearly Attestation Report, in the form of the report attached as Schedule "E"; or in a form designated by the Executive Director, Housing Secretariat;
- (h) provide such information, within ten (10) days of such written request, with respect to the Project, such as projected date of First Occupancy, as requested or required by the Executive Director, Housing Secretariat or the Director, Housing Stability Services, acting reasonably, from time to time;
- (i) comply with the requirement in Section 4.3 within thirty (30) days of the date of First Occupancy;

## **ARTICLE 8**

### **OBLIGATIONS OF THE PROPONENT DURING THE AFFORDABILITY PERIOD**

#### **8.1** At all times during the Affordability Period, the Proponent shall:

- (a) if required by the City at any time during the Affordability Period, make up to 100% of the Units available as Housing Benefit Units, in accordance with the terms and conditions of this Agreement or any other agreement entered into with the City with respect to those Units;
- (b) take commercially reasonable steps, when entering into a tenancy agreement for a Unit, to confirm that the tenant has a Household Income that does not exceed the Initial Income Limit determined in accordance with the City's Affordable Rental Housing Administration Manual and in a form acceptable to the Director, Housing Stability Services;
- (c) take commercially reasonable steps, when entering into a tenancy agreement for a Unit, to confirm that the tenant meets the definition of People and Populations Who Are Vulnerable and the tenant is, or otherwise would be, in Severe Housing Need or people experiencing or at high risk of homelessness, and
- (d) make reasonable efforts, when entering into a tenancy agreement for a Unit, to confirm that the tenant meets the definition of People and Populations Who Are Vulnerable and the tenant is, or otherwise would be, in Severe Housing Need or people experiencing or at high risk of homelessness, and make reasonable efforts to ensure that the Units are distributed among the following groups:
  - (i) [SPECIFIC TARGET GROUPS/PRIORITY GROUPS TO BE

**DETERMINED IN CONSULTATION WITH PROPONENT AND  
APPROVED BY CMHC]**

Among the Units listed above, the Proponent will make reasonable efforts to ensure that xx of the Units are also occupied by [TBD].

- (e) participate in the City's Housing Access System in accordance with the terms of the Proponent's Access Plan to be approved by the Executive Director, Housing Secretariat;
- (f) ensure that no Unit will be rented to the Proponent or shareholder or director of the Proponent, or any individual not at arm's length to the Proponent, shareholder or director of the Proponent unless the Proponent is a non-profit co-operative, as defined in the Co-operative Corporations Act, R.S.O. 1990, c. C.35, as amended, or is a not-for-profit corporation;
- (g) manage the Project so that the following occupancy standards are observed when entering into a tenancy agreement for a Unit:
  - (i) a minimum of one and a maximum of two persons per bedroom;
  - (ii) a maximum of one bedroom for spouses;
- (h) provide the support services to residential tenants residing at the Project as set out in the Support Services Plan approved by the Executive Director, Housing Secretariat, in a skilled and competent manner;
- (i) where the Proponent has entered into a separate agreement with the City for the provision of Support Services at the Project, operate the Project and provide such Support Services to residential tenants residing at the Project in accordance with such agreement;
- (j) manage the Project so that:
  - (i) the Monthly Occupancy Costs for any one Unit during the Affordability Period does not exceed 100% of Average Market Rent and the average across all Units does not exceed 80% of Average Market Rent;
  - (ii) the actual Monthly Occupancy Costs paid by the tenant for any one Unit, after the application of Housing Benefits, if any, do not exceed 30% of the tenant's Household Income or the shelter allowance of their Ontario Works or Ontario Disability Support Program benefits;
  - (iii) if heat, water or hydro costs are separately metered and paid directly by the household of any Unit, the Proponent shall deliver the Utility Allowance to the tenant by way of setting off the amount of the Utility Allowance against the monthly rent payable, such that the Monthly Occupancy Costs for any such Unit(s) shall not exceed the limits set out in (i) and (ii) above;
  - (iv) occupancy is maximized; and
  - (v) for Units receiving Housing Benefits, collect only the rental amount as determined by the Proponent in accordance with this Agreement;

- (k) no later than ninety (90) days after the end of the calendar year in which First Occupancy occurs, and annually thereafter, provide to the City:
  - (i) the Proponent's Annual Occupancy Report in the form of the report attached as Schedule "B", or in a form designated by the Director, Housing Stability Services;
  - (ii) a management representation report, in a form designated by the Director, Housing Stability Services including management declarations and a report on compliance with the provisions of this Agreement;
  - (iii) the Proponent's most recent audited financial statements for the Project in a form acceptable to the Director, Housing Stability Services; and
  - (iv) information on the Household Income and household composition of the Units rented to new tenants during the year, in a form acceptable to the Director, Housing Stability Services;
- (l) provide representatives of the City, CMHC and Canada, with access to its books and records, with respect to the Project, subject to the rights of the residential tenants of the Project;
- (m) ensure that each lease for a Unit shall provide the following:
  - (i) that the disclosure to the City, by the Proponent, of the tenant's personal information including Household Income and household composition, has been consented to by the tenant;
  - (ii) that no Unit may be sublet or assigned by the residential tenant under any circumstances;
  - (iii) a statement that the lease is exempt from section 8, paragraphs 6, 7 and 8 of subsection 30(1), sections 51, 52, 54, 55, 56 and 95 to 99, subsection 100 (2) and sections 101, 102, 104, 111 to 115, 117, 120, 121, 122, 126 to 133, 140, 143, 149, 150, 151, 159, 165 and 167 of the *Residential Tenancies Act, 2006*, S.O.2006, c. 17, that the unit is identified as a subsidized unit that was developed or acquired under a municipal capital facility by-law for housing and is subject this Agreement; and
  - (iv) a statement that the rent increases which can be imposed by the Proponent are controlled by the City, and cannot exceed the prevailing rent increase guideline established each calendar year pursuant to the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17 or any successor legislation, to an amount not to exceed Average Market Rent;
- (n) establish and maintain a capital asset replacement reserve fund for the Project, in accordance with the terms of the Lease;
- (o) manage the project in a fiscally responsible manner, including ensuring that:
  - (i) a deficit is not incurred in any year without the approval of the Executive Director; and

- (ii) no expenditure is made which is of a material and excessive nature having regard to the normal practice for similar housing;
- (p) ensure that the City will be provided with access to all information obtained from the tenant concerning the Household Income and family composition of each Unit, which information the City may verify;
- (q) ensure compliance with the provisions of MFIPPA, in its collection and sharing of any MFIPPA Protected Information, collected and shared, in accordance with the terms of this Agreement; and
- (r) comply with the requirements of the *Human Rights Code*, R.S.O. 1990, c. H.19 (the "Ontario Human Rights Code") in its leasing of the Units to Eligible Households. Except as expressly permitted by the Ontario Human Rights Code, the Proponent shall not, in the allocation of any Unit, discriminate against any person by reason of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance. The Proponent shall at all times indemnify and save harmless the City, its councillors, officers, employees, agents, successors and assigns (all of which are hereinafter called the "City Indemnitees") from and against any claims, demands, losses, costs, charges, expenses and penalties arising from any and all complaints, investigations, settlements, inquiries, hearings, applications, orders, prosecutions or other proceedings and all appeals from or judicial reviews of any of the foregoing (collectively referred to as "Actions") whatsoever made or brought against, suffered by or imposed on the City Indemnitees, directly or indirectly arising out of, resulting from or sustained as a result of the Proponent's failure to comply with the requirements of the Ontario Human Rights Code.

## ARTICLE 9 MONTHLY OCCUPANCY COSTS CHANGES

### 9.1 Monthly Occupancy Costs Increases

Subject to Section 9.2, the Proponent may adjust the Monthly Occupancy Costs, with respect to a Unit, if at least twelve (12) months have elapsed:

- (a) since First Occupancy of the Unit; or
- (b) since the day of the last rent increase with respect to the Unit, if there has been an increase,

by no more than the prevailing Rent Increase Guideline, to an amount not to exceed Average Market Rent. The Proponent acknowledges that, if the Rent Increase Guideline does not apply to the Project under the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17 or any successor legislation, the Proponent agrees that the Rent Increase Guideline applies by virtue of the contractual terms of this Agreement. In the event the Rent Increase Guideline is repealed and not replaced with similar legislation, Monthly Occupancy Costs may be adjusted based on annual changes to the Consumer Price Index - not seasonally adjusted, for all items - in January of each year for the Toronto Census Metropolitan Area (or, where available, the City of Toronto) as

reported by Statistics Canada (the "**CPI Adjustment**"), to an amount not to exceed Average Market Rent.

## **9.2 Affordability Criteria**

The actual Monthly Occupancy Costs paid by the tenant for any one Unit, after the application of Housing Benefits, if any, shall not exceed 30% of the tenant's Household Income or the shelter allowance of their Ontario Works or Ontario Disability Support Program benefits.

## **ARTICLE 10 FINANCIAL RECORDS, RIGHT TO AUDIT AND RIGHT TO ACCESS**

**10.1** The Proponent shall keep proper books of account and records of the financial management of the Project, in accordance with generally accepted business and accounting practices. The accounts and records shall include all invoices, receipts, vouchers and other documents relating to Project expenditures and revenues, including funding from all other sources.

**10.2** The Proponent shall submit to the City within five months following the end of each fiscal year of the Proponent, an Annual Information Return in the form established by the City from time to time under this Agreement and the audited statements consisting of a balance sheet and a statement of revenue and expenditures for the year.

**10.3** The Proponent shall retain all books, accounts, records (including records related to rent collection and tenant income and eligibility verification), receipts, vouchers and other documents, that pertain to the Project for a period of not less than seven (7) years from the end of each fiscal year of the Proponent to which the records relate.

**10.4** The Proponent will make such books, accounts and records available at all reasonable times for audit and inspection by the auditor for the City, CMHC or anyone designated in writing by the auditor to ensure compliance with the terms and conditions of this Agreement and verify costs claimed by the Proponent.

**10.5** The Proponent acknowledges and agrees that all accounts and records pertaining to payments of fees or other compensation for the solicitation, negotiating or obtaining of this Agreement shall be subject to the accounts and audit provisions of this Agreement, as they pertain to the Project.

**10.6** The Proponent shall permit the City's and/or CMHC's representatives to make copies and take extracts from such books and records and shall furnish the City with such additional information as it may require with reference to such books and records, as they pertain to the Project.

**10.7** CMHC, the City or a third-party representative of either or both CMHC and the City may conduct onsite visits to inspect and monitor the operation of the Units and compliance with the terms and conditions of this Agreement. All site visits are for CMHC's and the City's program and risk management purposes only and are not to be considered a technical inspection to confirm the quality of the work or the Proponent's compliance with applicable laws, including Ontario's Building Code.

**10.8** This Article shall survive the termination of this Agreement.

## **ARTICLE 11 INDEMNITY**

**11.1** The Proponent hereby agrees that it shall, from time to time, and at all times hereafter, well and truly save, keep harmless and fully indemnify the City, the Government of Canada and CMHC, and their elected and appointed officials, officers, directors, employees, agents, representatives, successors and assigns (collectively, the "Indemnified Parties"), from and against any and all actions, claims and demands whatsoever which may be brought against or made upon the Indemnified Parties and against any and all loss, liability, claims, judgments, costs, demands or expenses whatsoever which the Indemnified Parties may sustain, suffer or be put to resulting from or arising out of or in connection with:

- (a) this Agreement;
- (b) the Project;
- (c) the obligations of the Proponent hereunder;
- (d) the failure of the Proponent, its officers, consultants, contractors, agents, servants or employees to exercise reasonable care, skill or diligence in carrying out any work in respect of the Project;
- (e) any act or omission of the Proponent, its officers, agents, servants, consultants, contractors, employees or by anyone for whom the Proponent is at law responsible relating to any work, service or any other thing required to be performed or rendered hereunder by the Proponent;
- (f) all insured and uninsured loss or damage to property installed, property in transit and contractors' tools and equipment during the course of renovation or repair work to the Project; and/or
- (g) death or economic loss, caused by or in any way related to any of the Proponent's obligations under this Agreement;

provided that the Proponent shall not be liable for any actions, loss, liability, claims, judgements, costs, demands or expenses which result from negligent or wrongful acts of the Indemnified Parties or for those whom in law the Indemnified Parties are responsible.

## **ARTICLE 12 TRANSFERS AND ASSIGNMENTS**

**12.1** The Proponent shall not Transfer the Project without obtaining the prior written consent of the City, which consent may be unreasonably or arbitrarily withheld, conditioned or delayed. Any request for consent shall be accompanied by such information and documentation as reasonably required by the City. The City may, in its sole discretion, charge a commercially reasonable administration fee for such request. The City may, in its sole discretion, charge a commercially reasonable administration fee for such request.

**12.2** The Project shall not be the subject of a Transfer unless the Transferee has first entered into an assignment and assumption agreement with the City assuming the covenants set forth herein, which agreement shall be duly executed by the Transferee and delivered to the City prior to the Transfer.

**12.3** Notwithstanding anything to the contrary in this ARTICLE 12, the Proponent may lease

Units in the Project to residential tenants, without complying with Section 12.1 and Section 12.2.

### **ARTICLE 13 DEFAULT AND REMEDIES**

**13.1** Upon the expiration of any cure periods contemplated in Section 13.2, the following shall be considered events of default under this Agreement:

- (a) the Proponent has, in the opinion of the City, acting reasonably, failed to proceed with the operation of the Project in a timely manner, except where such failure is due to causes which, in the opinion of the City, acting reasonably, are beyond the control of the Proponent;
- (b) the Proponent has failed to achieve First Occupancy of the Project by [DATE] or such other date as determined by the Executive Director, Housing Secretariat, on written Notice to the Proponent;
- (c) the Proponent has failed to achieve 25% occupancy of the Project by [DATE], or such other date as determined by the Executive Director, Housing Secretariat, on written Notice to the Proponent;
- (d) The Proponent has failed to achieve 100% occupancy of the Project by [DATE], or such other date as determined in writing by the Executive Director, Housing Secretariat, on written Notice to the Proponent;
- (e) the Proponent ceases to operate the Project pursuant to the terms and conditions of this Agreement;
- (f) the Proponent knows or ought reasonably to have known, in the opinion of the City, acting reasonably, that a Unit is being provided to a tenant whose Household Income exceeded the Initial Income Limit, or has not been verified under the terms of this Agreement or that the household composition has been misrepresented;
- (g) the Proponent knows or ought reasonably to have known, in the opinion of the City, acting reasonably, that the average Monthly Occupancy Costs for the Project exceed 80% of Average Market Rent, or that the average Monthly Occupancy Costs for any one Unit exceed 100% of Average Market Rent; or that the actual Monthly Occupancy Costs paid by the tenant for any one Unit, after the application of Housing Benefits, if any, exceed 30% of the tenant's Household Income or the shelter allowance of their Ontario Works or Ontario Disability Support Program benefits;
- (h) the Proponent has breached ARTICLE 6, ARTICLE 8 or ARTICLE 9 of this Agreement in whole or in part;
- (i) the Proponent, in its Proposal or in connection with this Agreement, has made materially false or misleading representations or statements, or provided materially false or misleading information to the City;
- (j) the Proponent is in default under the terms of the Lease;
- (k) an order is made or resolution is passed for the winding up or dissolution of the

Proponent, or the Proponent is dissolved;

- (l) the Proponent becomes bankrupt or insolvent or takes the benefit of any legislation now or hereafter in force for bankrupt or insolvent debtors or fails under any proposal or makes any assignment for creditors or any arrangement or compromise;
- (m) a receiver or receiver-manager is appointed for the Project by a creditor;
- (n) the Proponent commits fraud, misconduct, criminal acts, gross negligence or willful misconduct;
- (o) the Proponent has failed to provide the information requested in Section 4.3 for the purposes of the Tax Exemption, to the Executive Director, Housing Secretariat, within 30 days of the date of First Occupancy; or
- (p) there is, in the opinion of the City, acting reasonably, a material adverse change in risk in the Proponent's ability to carry out its roles and responsibilities under this Agreement with respect to the implementation and/or the operation of the Project.

**13.2** If there is an event of default by the Proponent that is continuing, and the default has not been remedied within thirty (30) days of receipt by the Proponent of written notice of an event of default or within such longer period as is required and the City may allow, the City may, in its absolute discretion, without restricting any remedies otherwise available:

- (a) require the Proponent to provide additional information or documents to the City;
- (b) rescind the tax exemption by-law passed with respect to the Project;
- (c) appoint or seek the appointment of a manager and/or receiver for the Project, whether an officer, employee or agent of the City or not, if the City has determined that there are serious financial matters that could result or have resulted in the Proponent being unable to pay its debts as they become due;
- (d) correct the breach itself or by retaining a third party and the reasonable cost of so doing shall be payable forthwith by the Proponent to the City and may be retained from any unpaid portion of the funding being provided pursuant to this Agreement or may be recovered in any court of competent jurisdiction as a debt due to the City;
- (e) terminate the Agreement by giving written notice to the Proponent; and/or
- (f) seek any additional remedy available to the City at law or in equity.

**13.3** For the purposes of this Section, the Proponent will be found to have remedied the default if, for the purposes of Subsection 13.1(f), the Proponent submits a plan satisfactory to the Executive Director, Housing Secretariat attempting to prevent future defaults.

**13.4** If the City gives the Proponent written notice of an event of default, the City may suspend the provision of any further City Benefits under this Agreement until the breach is remedied.

**13.5** Upon providing a notice of termination, the City shall have no obligation to provide City Benefits to the Proponent, and the City shall have no obligation to provide the Housing Benefits

except as set out in Section 5.10.

**13.6** All rights and remedies of the City under this Agreement shall be cumulative and not alternative.

## **ARTICLE 14 RECEIVERSHIP**

**14.1** Where a Receiver is appointed by the City pursuant to Subsection 13.2(c), the Receiver shall have the power to:

- (i) take control, direction and possession, or any of them, of the Project, the revenue and the assets of the Proponent, the operation and books, records and accounts of the Proponent or any part of them related to the Project;
- (ii) take control and direction of the employees and agents of the Proponent;
- (iii) receive and recover and use all revenues and assets of the Project;
- (iv) incur and pay liabilities;
- (v) maintain, operate and repair the Project; and
- (vi) execute and prosecute all suits, proceedings and actions which the Receiver considers necessary for the proper protection of the Project, to defend all suits, proceedings and actions against the Proponent 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.

**14.2** The City may at any time and from time to time change, terminate or renew the mandate of the Receiver or replace or reinstate the Receiver and fix the reasonable remuneration of the Receiver who may deduct the same out of the revenues of the Project.

**14.3** Without limiting any rights of the City under this Agreement, the City acknowledges that it is the intention of the City to reinstate the Proponent whenever feasible, as determined by the City, as a self-governed entity retaining substantial control of the management of the Project within sixty days after the receivership becomes effective.

**14.4** The Receiver shall be deemed to be the agent or attorney of the Proponent and the City shall not be responsible for the Receiver's acts or omissions.

**14.5** The Proponent undertakes to ratify and confirm whatever the Receiver may do pursuant to the Receiver's mandate.

## **ARTICLE 15 CONFIDENTIALITY AND PERSONAL INFORMATION**

**15.1** The Proponent, its officers, agents and employees shall treat all information which is obtained by the Proponent through its performance of this Agreement, as confidential and shall not disclose same, other than in accordance with this Agreement, without the prior written approval of the City, unless required by law, provided, however, that the Proponent shall notify

the City immediately upon learning of the possibility of any such requirement in order to allow the City or CMHC a reasonable opportunity to contest or limit the scope of such required disclosure (including application for a protective order or other remedy).

**15.2** Notwithstanding Section 15.1, the Proponent may disclose information to the Proponent's lawyers, accountants and other professionals, provided that such persons require the information in order to properly perform their duties.

**15.3** The Proponent shall not, unless required by law, release information pertaining to tenants and applicants for tenancy at the Project to third parties without first obtaining the written consent of the affected tenant or applicant.

**15.4** The collection, use and disclosure of information by the City shall be governed by MFIPPA.

**15.5** Notwithstanding that the *Housing Services Act, 2011* ("HSA") does not apply to the Project, the Proponent agrees, as a contractual obligation, that it shall comply with the standards prescribed under section 169 of the HSA for the collection, use, disclosure and safeguarding of privacy of personal information and for a person's access to his or her personal information, including personal information which the Proponent has obtained from the City. The Proponent shall comply with all other applicable legislative requirements concerning the safeguarding of personal information, including personal health information, including, as applicable, the requirements of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and the *Personal Health Information Protection Act*, 2004 S.O.. 2004, c. 3, Schedule A.

**15.6** The Parties shall hold confidential any information clearly identified and marked as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Nothing in this Agreement shall be construed in a manner that would contravene the access to information and privacy legislation that applies to the Parties.

**15.7** The Proponent consents to the collection, use and disclosure of information submitted to CMHC by the City for the following purposes: (i) to assess the Proponent's eligibility under the RHI; (ii) for analytics, policy analysis, auditing and research by CMHC; (iii) to communicate to the Proponent possible opportunities under other CMHC programs, or possible collaboration opportunities with third parties; (iv) for evaluation of the RHI; (v) for use by CMHC in and the Government of Canada for purposes related to the *National Housing Act* (Canada); and (vi) for information verification and due diligence purposes, including to detect and protect CMHC from errors and fraud.

## **ARTICLE 16**

### **PUBLIC ACKNOWLEDGEMENT OF FUNDS**

**16.1** The Proponent shall ensure that in any and all communication activities, internet web site information, publications, advertising, signs and press releases referring to the Project, there is included an appropriate acknowledgement, in accordance with the guidelines and instructions provided by the City to the Proponent, of the contributions made by the City, the Government of Canada and CMHC. The Proponent shall notify the City in advance of any and all communication activities, including media and fundraising events, publications, advertising and press releases.

## ARTICLE 17 DISPUTE RESOLUTION

**17.1** The City and Proponent 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.

**17.2** In the event the Parties agree to arbitration, the arbitration shall be governed by the provisions of the *Arbitration Act, 1991*, S.O.1991 c.17.

## ARTICLE 18 NOTICES

**18.1** Unless otherwise provided in this Agreement, any notice, approval or other communication required or permitted to be given ("**Notice**") shall be in writing and shall be personally delivered, sent by prepaid registered mail, or sent by email and addressed as follows:

(a) if to the City, at:

City of Toronto  
Metro Hall, 55 John Street, 7th Floor  
Toronto, ON M5V 3C6

Attention: Executive Director, Housing Secretariat  
Email: [HSS@toronto.ca](mailto:HSS@toronto.ca)

with a copy to the City Solicitor, at

City of Toronto  
55 John Street, Stn.1260  
26th Floor, Metro Hall  
Toronto, ON M5V 3C6

Attention: City Solicitor  
Email: [Legalrec@toronto.ca](mailto:Legalrec@toronto.ca)

(b) if to the Proponent, at:

[ADDRESS]

Attention:

E-mail:

Fax No: ()

**18.2** Any Notice shall be deemed to have been validly and effectively given and received: (1) if personally delivered, on the date of delivery; (2) if sent by prepaid registered mail, on the third (3rd) Business Day next following the date of mailing, provided, however, that during any postal disruption or threatened postal disruption, notice shall be provided by personal delivery, fax or email; and (3) if sent by email prior to 5:00 p.m. on a Business Day, on the day on which it was sent, or otherwise on the Business Day next following the day on which it was sent.

**18.3** Any Notice permitted or required to be given by the City may be given by the Deputy City Manager. However, the Deputy City Manager specifically reserves the right to submit the issue of the giving of any Notice, or of the contents of any Notice, to City Council for its determination.

**18.4** Either Party under this Agreement may from time to time by Notice to the other party change its address for service under this Agreement.

## **ARTICLE 19 CONTRACTUAL STATUS OF THE PARTIES**

**19.1** The Proponent shall be solely responsible for the payment of any person or entity employed, engaged or retained by the Proponent for the purpose of carrying out the Project or otherwise assisting it in the discharge of its obligations under this Agreement.

**19.2** The Proponent shall ensure that any contract entered into by it in respect of the Project is in its own name and is in no way purports to be binding upon the City.

**19.3** The Proponent acknowledges that it is not the agent or representative of the City and has no authority to make a promise, agreement or contract on behalf of the City in respect of the Project.

**19.4** The Parties agree that, in respect of any work on the Project undertaken by the Proponent, the City is not an "Owner" within the meaning of the *Construction Act*.

## **ARTICLE 20 UNCONTROLLABLE CIRCUMSTANCES**

**20.1** Except as expressly provided for in this Agreement, no party shall be in default under this Agreement or liable to the other party for any loss, damage or delay to the extent it results from an uncontrollable circumstance if such circumstance is not caused by the default or act of commission or omission of such party or avoidable by the exercise of reasonable effort or foresight provided that nothing excuses a delay caused by lack of funds or other financial circumstances or excuses a party from payment of any amount payable hereunder when due.

**20.2** For the purpose of this Article, the words "uncontrollable circumstance" means any force majeure, strike, walkout, labour dispute, civil commotion, war or similar event, invasion, the exercise of military power, act of God, change in laws, government regulations or controls, court order, or any cause beyond the reasonable control of the party, unless any such lack of control results from deficiency in financial resources.

## **ARTICLE 21 GENERAL PROVISIONS**

**21.1** This Agreement may be changed only by written amendment duly executed by authorized representatives of both parties.

**21.2** In this Agreement, words in or implying the singular include the plural and vice versa, and words having gender include all genders.

**21.3** The insertion of headings and the division of this Agreement into articles and subdivisions thereof is for convenience of reference only and shall not affect the interpretation hereof.

**21.4** Any reference in this Agreement to an “article” or any subdivision thereof shall, unless the context otherwise requires, be taken as a reference to the correspondingly-labelled provision of this Agreement.

**21.5** Time shall in all respects be of the essence of all matters provided for in this Agreement, provided that the time for the doing or completing of any matter may be extended or abridged by an agreement, in writing, executed by the City and the Proponent, or by their respective solicitors, who are expressly appointed for that purpose.

**21.6** The waiver by a party of strict compliance or performance of any of the terms and conditions of this Agreement or of any breach on the part of any other party shall not be held or deemed to be a waiver of any subsequent failure to comply strictly with or perform the same or any other term or condition of this Agreement or of any breach thereof.

**21.7** No waiver of any breach of any provision of this Agreement will be effective or binding unless it is in writing and signed by an authorized representative of the party purporting to give such waiver and, unless otherwise provided, will be limited to the specific breach waived.

**21.8** This Agreement shall not be assigned by the Proponent without the prior written consent of the Executive Director, Housing Secretariat which consent may be withheld or given subject to such terms and conditions as the Executive Director, Housing Secretariat deems appropriate.

**21.9** Should any provision of this Agreement be declared or found to be illegal, unenforceable, legally ineffective or void, then each party shall be relieved of any obligation arising from such provision, but the balance of this Agreement, if capable of performance, shall remain in full force and effect.

**21.10** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

**21.11** Each obligation of the City or of the Proponent expressed in this Agreement, even though not expressed as a covenant, is considered to be a covenant for all purposes.

**21.12** Notwithstanding any other provision of the Agreement, the provisions of the Agreement which by their nature are continuing, including, without limitation, the provisions regarding confidentiality and indemnity, shall survive the termination or expiry of this Agreement.

**21.13** Wherever any consent, agreement or approval of the City is required under the terms of this Agreement, unless otherwise provided and subject to any specific provision respecting such consent, agreement or approval, the City shall not unreasonably or arbitrarily withhold its consent, agreement or approval.

**21.14** Notwithstanding any consent or approval given by the City with respect to any plans, specifications or other construction-related matter, the City will not be in any way liable for the design or construction of any proposed structure, and the party that has obtained the consent or approval of the City shall be wholly liable for such design and construction.

**21.15** Nothing in this Agreement derogates from or interferes with or fetters the exercise by the City of all of its rights as a municipality, or imposes any obligations on the City, in its role as a municipality, and the City shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities, including planning rights and responsibilities. Nothing in this Agreement derogates from or interferes with or fetters the exercise by the City’s officers, employees, agents, representatives or elected and appointed officials of all of their rights, or

imposes any obligations on the City's officers, employees, agents, representatives or elected and appointed officials, other than as expressly set out in this Agreement.

**21.16** No communication or dealing between the Proponent and any department, committee, body, officer, employee, agent, representative or elected or appointed official of the City will be deemed to be a communication or dealing under the provisions of this Agreement between the Proponent and the City as Parties to this Agreement, or to affect the City with notice of any such communication or dealings. It is intended and agreed that the City acts solely in a private capacity under this Agreement and any communication or dealing between the City and the Proponent as Parties to this Agreement will only be effective if delivered in accordance with the Notice provisions set out in this Agreement. No communication or dealing between the City as a Party to this Agreement and the Proponent as a Party to this Agreement will relieve the Proponent from the responsibility of discharging its lawful obligations to the City imposed by statute, regulation, by-law or in any other lawful manner separate and apart from the obligations of the Proponent imposed by this Agreement.

**21.17** This Agreement may be executed in any number of counterparts (including counterparts delivered electronically) and all such counterparts taken together will be deemed to constitute one and the same instrument. This Agreement may be executed by electronic signature that is received by the City in a file format acceptable to the City. Such electronic signature shall be deemed to be an original signature for the purpose of this Agreement with the same legal effect as an original signature.

**21.18** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

*[Remainder of this page left intentionally blank.]*

IN WITNESS WHEREOF the parties hereto have affixed their respective corporate seals attested to by the hands of their proper signing officers in that behalf duly authorized.

Authorized by Planning and Housing  
Committee Item No. PH35.21 as  
adopted by City Council at its meeting  
on July 19, 20, 21 and 22, 2022.

**APPROVED AS TO FORM**

.....  
For Wendy Walberg  
City Solicitor  
File #

**CITY OF TORONTO**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[PROPONENT]**

Per : \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the Corporation

**SCHEDULE "A"****ACCESS PLAN TEMPLATE****ACCESS PLAN -**

This is the Access Plan for the project indicated below. The Access Plan includes, but is not limited to, a project description; mandates/target groups; depth of affordability and initial occupancy costs; relevant policies; housing benefit allocations and partnerships, as applicable. The access plan also identifies how the project will be marketed (if applicable), along with how tenants will be selected to lease units using a fair and transparent process.

This Access Plan and any amendments must be approved by the Director of Housing Stability Services.

**PART 1 PROJECT DESCRIPTION****1. Contact Information:**

Proponent Name:

Proponent Phone Number:

Proponent Email Address:

Property Manager Name:

Property Manager Phone Number:

Property Manager Email Address:

**2. Project Address (including nearest major intersection):****3. Council Approval:****4. Contribution Agreement Date of Execution:****5. Initial Occupancy Date:****6. Project Features (e.g. accessibility features, common area amenities, etc.):**

☐ Communal balcony/terrace

☐ Air Conditioning

☐ Elevator

☐ Stair only

☐ Indoor parking

☐ Outdoor parking

☐ Visitor parking

☐ Smoke free

☐ Fitness facilities

☐ Mail room

☐ Wheelchair accessible building

☐ On-site laundry

☐ Meeting/party room

☐ On-site management office

☐ Playground

☐ Outdoor communal space (e.g. courtyard, rooftop terrace, etc.)

☐ Bicycle storage

☐ Storage/lockers

7. List/describe any other project features and/or community amenities within the larger development, if applicable, not mentioned above:

8. **Utilities:** Provide an explanation on which utilities are provided by the landlord and which the tenant is responsible for paying, along with any utility charges or allowances as applicable.

Utility	Provided by landlord	Tenant pays
Hydro	<input type="checkbox"/>	<input type="checkbox"/>
Heat	<input type="checkbox"/>	<input type="checkbox"/>
Water	<input type="checkbox"/>	<input type="checkbox"/>
Hot water	<input type="checkbox"/>	<input type="checkbox"/>

## PART 2 TARGET POPULATION AND UNIT TYPE

1. **Mandate/Target Group:** Identify if the project, or a specific number of units in the project, has an approved mandate, i.e. Indigenous, seniors, persons with disabilities, Victims of Domestic Violence, etc.

Mandate/Target Group	No. of Units

2. **Unit Type:** Complete the chart below and identify the following details, if applicable:

UNIT TYPE	Affordable Units*				
	TOTAL UNIT COUNT	# Barrier Free	# Fully Accessible	# with Rent Supplement Benefits	# Under Referral Agreement or Head Lease
Bachelor					
1-bed					
2-bed					
3-bed					
4-bed					
5-bed					

\*Note: Units indicated in the "Total Unit Count" column may fall into none or multiple categories within the same row, therefore unit counts in these columns may not add up to the total number listed in the Total Unit Count column.

3. Provide any other additional explanation or further details regarding unit type or allotment:

### PART 3 INITIAL MONTHLY OCCUPANCY COST AND RENT INCREASES

- The AMR and Utility Allowances are updated annually and are available on the City's [website](#).
- Utility allowances are subtracted from monthly occupancy costs if tenants are required to pay their utilities.
- The annual increase must not be greater than the prevailing [Rent Increase Guideline](#) established each calendar year pursuant to the Residential Tenancies Act, 2006 or any successor legislation.
- Acceptable adjustments to Monthly Occupancy Costs are outlined in Section 11.1 of the Affordable Housing Administration Manual.

1. Indicate the initial depth of affordability by entering the number of units by unit type, as outlined in the Contribution Agreement:

Unit Type	60% AMR	80% AMR	100% AMR		
<b>Bachelor</b>					
<b>1-bed</b>					
<b>2-bed</b>					
<b>3-bed</b>					
<b>4-bed</b>					
<b>5-bed</b>					

2. Indicate the initial rent per unit type along with utility allowances if applicable. Figures reflected below should be based on current year AMRs, and will be updated based on the date of initial occupancy:

<u>Unit Type</u>	<u>Initial Rent</u>	<u>Utility Allowance</u>
-Select One-		
Bachelor		
Bachelor		
Bachelor		
Bachelor		
Bachelor		

## **PART 4 BASIC ELIGIBILITY REQUIREMENTS**

All applicants must meet the basic eligibility requirements. Full details of the requirements are outlined in Section 4 of the Affordable Housing Administration Manual.

Any landlord screening practices beyond the review of basic eligibility must be fair, reasonable, in compliance with the [Ontario Human Rights Code](#), and ensures that tenants are not arbitrarily refused units. Minimum income criteria may not be used as sole criteria for refusal. Factors that improve affordability such as a household's receipt of a housing allowance or child tax credits, and availability of a guarantor must be considered. If refused an offer, all applicants that have completed the full application process should receive a written response. Full details of the requirements are outlined in Section 8 of the Affordable Housing Administration Manual.

1. Outline additional landlord screening practices which will be considered:

- ☐ Landlord reference rental history
 ☐ Income criteria credit checks
- ☐ Other:

2. Outline additional landlord screening practices that will be utilized to ensure the inclusion of low or moderate income households, e.g. guarantors, use of housing allowances, etc.
  
3. Explain any applicable policies or processes that address a refusal to offer housing or appeals process. Attach corresponding documents if applicable.

## **PART 5 HOUSING BENEFIT ALLOCATION**

For housing benefits, Housing Providers are subject to the terms and conditions set forth in the applicable Agreement:

- For non-profit housing providers, the City may enter into an administration agreement or amend a current agreement and the proponent will administer housing benefits as the City's agent
- All housing benefit units will be filled through the centralized wait list (CWL), including upon turnover, unless an appropriate alternative or supportive housing mandate is in place for the building (or number of dedicated units within the building)
- Dedicated alternative or supportive housing units should continue to be filled through the referral pathway outlined in the Access Plan and/or applicable agreement.
- Please list any housing benefits and their funding source that are not being provided by the City of Toronto

1. Describe how housing benefit units will be allocated to tenants by completing the table below.

Target Group	Unit Type	# of Units	Housing Benefit Type	Funding Source	Referral Source (ex: CWL)



Page 6 of

2. Provide any other additional explanation, such as any differences when filling a vacancy upon turnover, or any further details (if applicable):

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## **PART 6** TENANT APPLICATION PROCESS

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1. Provide detailed information on how your units will be **marketed** (if applicable) and **filled** as per program guidelines. For projects with referral agreements, include this information in Part 7. For units that are promoted publicly, strategic and inclusive marketing principles should be considered to ensure the process to fill units remains fair and transparent. Where applicable, include any infrastructure used for initial occupancy advertising and application submission, including any applicable websites or links, etc.

Note: As per the Contribution Agreement, Housing Providers shall participate in the City's Housing Access System when established, in accordance with the terms of an approved Access Plan.

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## **PART 7** PARTNERSHIPS AND REFERRAL AGREEMENTS

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1. Provide details regarding partnerships and/or referral pathways:
  - Describe the source of funding for supports and if applicable, housing benefits
  - Contact details including name, title, email and phone for referral partners
  - Describe how units will be filled via referral pathways
  - Attach any applicable legal agreements such as a Referral Agreements or Head Lease.

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## PART 8 UNIT ALLOCATION

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1. Provide details on how Affordable Housing units will be allocated to applicants who are **not** coming from the Centralized Waiting List (CWL) or alternative or supportive housing referral pathways. Include the following details:
  - Households must be selected using the random draw process outlined in Section 7.4 of the Affordable Housing Administration Manual, unless other referral pathways are approved for housing with supports, housing benefits or mandates
  - The approach and application process used to select tenants
  - Identify how this process and approach will be transparent and fair
  - Identify how tenants will be communicated with and notified of the application process
  - For successful tenants who will receive an Affordable Housing unit, identify how the process will be in compliance with the Affordable Housing Administration Manual

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## PART 9 FILLING UNIT VACANCIES UPON TURNOVER

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1. Provide details on how affordable housing units will be filled upon turnover to applicants who are **not** coming from the Centralized Waiting List (CWL) or alternative or supportive housing referral pathways. Include the following details:
  - The approach used to select tenants
  - If applicable, how the internal waitlist will be leveraged
  - The length of time an applicant remains on the provider's waitlist
  - Identify how this process and approach will be transparent and fair
  - Identify how tenants will be communicated with including timelines
  - For successful tenants who will receive an Affordable Housing unit, identify how the process will be in compliance with the Affordable Housing Administration Manual

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## **PART 10** CONFLICT OF INTEREST POLICY

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1. Outline restrictions on eligibility for the organization's staff, Board of Directors (if applicable) and their family. Attach organizational conflict of interest policies, if applicable.

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## **PART 11** INTERNAL TRANSFER POLICY

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1. Explain your internal transfer policy, or provide the policy as an attachment.

An internal transfer policy outlines the eligibility requirement and processes for a household transferring from one unit to another in a project.

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## **PART 12** REPORTING

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Housing Providers are required to complete reporting as a part of the Affordable Housing Program. Full details of reporting requirements can be found in Section 12 of the Affordable Housing Administration Manual.

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## **PART 13** APPLICATION AND LEASE REQUIREMENTS

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A signed Eligibility and Household Income Review Form, found in the Affordable Housing Administration Manual, with all supporting documentation and a signed lease agreement must be on file for each household.

For mandatory lease requirements, refer to Section 11.3 of the Affordable Housing Administration Manual.

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## **PART 14** PERSONAL INFORMATION AND RECORD-KEEPING

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Housing Providers must ensure that the requirement pertaining to Collecting and Keeping Information and Protecting Personal Information as outlined in Section 10 of the Affordable Housing Administration Manual are met.

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## **PART 15** OTHER

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1. List any other information pertaining to this project's access plan not already indicated above. List any appendices that will be attached as supplementary information with this access plan:

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**PART 16 APPROVAL**

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\_\_\_\_\_  
Per (Authorized Signature)

\_\_\_\_\_  
Print Name

Title:

I / We have the authority to bind the corporation

**City of Toronto**

\_\_\_\_\_  
Per (Authorized Signature)

\_\_\_\_\_  
Print Name

Director, Housing Stability Services

I / We have the authority to bind the corporation

**SCHEDULE “B”**  
**PROPONENT’S ANNUAL OCCUPANCY REPORT**  
For the Year Ended December 31, 20XX

**A. Project Information**

<b>Corporation Name:</b>	<b>Contact:</b>
<b>Project Name:</b>	<b>Position:</b>
<b>Project Address:</b>	<b>Email:</b>
<b>Affordability Period:</b>	<b>Phone:</b>
<b>C.A. Expiry Date:</b>	

**B. Project Units - Occupancy Costs - Average Market Rents at December 31**

	A	B	C	D	E
<b>Unit Type</b>	<b>Total Units</b>	<b>Average Actual Occupancy Costs</b>	<b>CMHC (City of Toronto) Average Market Rents</b>	<b>Occupancy Costs by Unit Type (AxB)</b>	<b>CMHC AMR by Unit Type (AxC)</b>
Bachelor		-			
One Bedroom					
Two Bedroom					
Three Bedroom		-			
Four Bedroom		-			
<b>Total</b>	-			-	-

**C. Depth of Affordability**

Weighted Average Rents	Project Weighted Average Rent (PWAR) Total of (D) ÷ Total of (A)	CMHC Weighted Average Rent (CMHCWAR) Total of (E) ÷ Total of (A)
	0	0
Depth of Affordability: % of AMR Achieved for Overall Project (PWAR ÷ CMCHWAR) x 100 (not greater than 100% of CMHC AMR)		<b>0.00%</b>

**D. Project Certification**

I certify, to the best of my knowledge, that the information provided above is true and correct.

I certify that the household income for all new occupants in the reporting year was below the Initial Income Limit (48 x the monthly occupancy costs for the relevant housing unit).

I hereby authorize the City of Toronto to review the rent roll, if deemed necessary.

Name of  
Proponent

by:

Name:

Date

Title:

I have authority to bind the Corporation

**E. City of Toronto**

We have performed the necessary review and tests on the records of the Property pertaining to the rent levels for the reporting period. Our results confirm the information as provided above is true and correct.

by:

\_\_\_\_\_  
Name:

Title:

\_\_\_\_\_  
Date

**SCHEDULE "C"**

**UNITS RECEIVING HOUSING BENEFITS**

**Housing Project Address:**

**Total Number of Units with Housing Benefits:**

**Mandate:** Alternative – Supportive Housing

The following services and appliances shall be provided by the **Housing Provider** and shall be included in the Benchmark Market Rent: Heat; Hydro; Water; Hot Water; Refrigerator; Stove.

The **City** shall not pay for any parking charges.

## SCHEDULE "D"

### SUPPORT SERVICES PLAN

The support services provided will include but not be limited to:

- **Housing Stability Supports**  
Housing placement, rehousing, housing-set up activities, and housing stabilization activities;
- **Basic Need Supports**  
Housing stability such as food provision, life skills development, groceries, hygiene supplies, laundry, shoes and clothing, hoarding supports, personal identification, access to technology in a community setting, bus or transit fare related to integration activities.
- **Clinical and Treatment Supports**  
Supports that seek to improve the physical/mental health and well-being of tenants such as brokering and navigating access to clinical, health and treatment services through case management, harm reduction activities and professional fees and honoraria for Indigenous Elders or traditional healers, and supports for access to traditional and culturally-sensitive healing services (i.e. healing circles, sweat lodge ceremonies, access to traditional medicine);
- **Eviction Prevention Supports**  
Supporting tenants before crisis occurs; mediation activities, landlord liaison activities, hoarding prevention supports, rent repayment plans and damage repair activities;
- **Economic Integration Supports**  
Connecting tenants to income assistance, pre- and post-employment activities, and education and training assistance;
- **Social, Community Integration & Cultural Supports**  
Recreation and sport activities

\*For Indigenous tenants, Indigenous Elder consultations, gatherings, preparation of traditional foods, and navigation of urban services that help establish and maintain a culturally relevant support network (i.e. Indigenous language and culture classes);

Activities may also include supporting culturally-relevant services and connections with community (i.e. local and/or home community including First Nations, Inuit band, or Métis settlement, etc.), cultural ceremonies, access to traditional foods and medicines and other supports with the goal of increasing cultural connections and an individual's sense of belonging in a community

**SCHEDULE “E”****YEARLY ATTESTATION REPORT**

Attestation Date:	
Municipal building address:	
Number of beds/units:	
Targeted vulnerable population:	
1) Total number of affordable units that have been retained:	
2) Are the tenants occupying the units (a) spending less than 30% of their gross income on the applicable bed/unit or the shelter component of any provincial or territorial income assistance as an equivalent, and (b) composed of individuals and families who are, or otherwise would be, in severe housing need, or people experiencing or at high risk of homelessness?  If no, please provide detailed explanation:	
3) As noted above, did changes to the distribution of units among vulnerable population occur? (if changes occurred, please fill out the following)	
Primary vulnerable population targeted:	
Number of affordable units/beds serving for primary vulnerable population:	
Secondary vulnerable population targeted:	
Number of affordable units/beds serving for secondary vulnerable population:	
Tertiary vulnerable population targeted:	
Number of affordable units/beds serving for tertiary vulnerable population:	
4) Among the number of units targeting the vulnerable populations listed above, please indicate the units that are targeted to the priority groups:	
Number of units targeting the priority group:	
5) Are the units being maintained and in good condition?  If no, please provide additional information:	
6) Is there insurance policy in place that covers the replacement value of the unit?  If no, please provide additional information:	
7) Is there any concern with the viability of the project?  If yes, please provide additional information:	

8) Is there any other concern causing the project at risk of not being able to comply with the RHI Agreement?	
If yes, please provide additional information:	

I confirm that the information contained within this attestation is true to the best of my knowledge and I am hereby authorized to sign this document on behalf of the Proponent

---

**Name**

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**Signature**

---

**Date**

**SCHEDULE "F"****DEFINITION OF PEOPLE AND POPULATIONS WHO ARE VULNERABLE**

**"People and Populations Who Are Vulnerable"** means the following groups and the individuals belonging to these groups:

- (i) women and children fleeing domestic violence;
- (ii) seniors;
- (iii) young adults;
- (iv) Indigenous peoples;
- (v) people with disabilities;
- (vi) people dealing with mental health and addiction issues;
- (vii) veterans;
- (viii) LGBTQ2S+;
- (ix) racialized groups;
- (x) Black Canadians;
- (xi) recent immigrants or refugees; and
- (xii) Homeless people or those at risk of Homelessness (as defined below).

**"Homelessness"** is described as the situation of an individual, family or community without stable, safe, Permanent (as defined below), appropriate housing, or the immediate prospect, means and ability of acquiring it. Populations at imminent risk of homelessness are defined as individuals or families whose current housing situation will end in the near future (for example, within 2 months) and for whom no subsequent residence has been established.

**"Permanent"** means, with respect to housing, lasting or stable and does not include temporary accommodations where tenancy is limited to a predetermined period of time of three months or less, such as shelters;

# **Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy**

**Background:**

Organizations and individuals in Ontario have obligations not to engage in harassment, discrimination, and hate activity. These obligations are captured in the Ontario Human Rights Code, the Occupational Health and Safety Act, the Employment Standards Act, the Accessibility for Ontarians with Disabilities Act, the Criminal Code of Canada and the Charter of Rights and Freedoms.

The City's [Human Rights and Anti-Harassment/Discrimination Policy](#) and [Hate Activity Policy](#) incorporate these obligations not to engage in harassment, discrimination, and hate activity on all prohibited grounds set out in the Ontario Human Rights Code as well as the additional grounds of political affiliation and level of literacy as set out in section 2.3 of the [Human Rights and Anti-Harassment/Discrimination Policy](#).

These policies also require the following Declaration of Compliance with Anti-Harassment/Discrimination Legislation to be signed in order for a contract, permit or other permission to be approved or issued by the City. The name of the individual or organization and the fact that the Declaration was signed may be included in a public report to City Council.

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**Declaration:**

**I/We uphold our obligations in accordance with the above provincial and federal legislation and legal obligations. In addition, I/we uphold our obligations under the City's [Human Rights and Anti-Harassment/Discrimination Policy](#) and [Hate Activity Policy](#) that prohibit harassment, discrimination, and hate activity.**

**The organization or individual acting on behalf of the organization affirms the necessary policies, programs, information, instruction, plans and/or other supports are in place and are consistent with our legally mandated obligations. Additionally, in order to align with City policy, I/we agree to prohibit harassment, discrimination, and hate activity on all prohibited grounds set out in the Ontario Human Rights Code as well as the additional grounds of political affiliation and level of literacy.**

**I/We have an internal process available to employees, service recipients, and facility users to prevent, address and remedy discrimination, racism, harassment, hate activity and inaccessibility complaints. I/we agree that, upon the request of the City, I/we shall provide evidence of the policies, programs, information, instruction, plans and other supports and an appropriate internal complaint resolution process required under this Declaration which is sufficient to allow the City to determine compliance with policy and legal obligations.**

**I/We acknowledge that failure to demonstrate compliance with this Declaration to the satisfaction of the operating Division, in consultation with the City Solicitor, may result in the termination of the contract and/or other consequences, such as fines, penalties, or restrictions as set out in the relevant operating Division's procedures and/or contract.**

# Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy

## Declarant Information

Contact Information		
<input type="checkbox"/> Organization/Business <input type="checkbox"/> Individual (For Organization/Business representative provide business contact information)		
Organization Name (If applicable) Click here to enter text.		
Organizational Representative or Individual (First and Last Name) Click here to enter text.		
<input type="checkbox"/> Check this box if First Name and Last Name do not apply to you because you have either a registered Birth Certificate or Change of Name Certificate bearing a Single Name. Provide your name below.		
Single Name		
Street Number Click here to enter text.	Street Name Click here to enter text.	Suite/Unit Number Click here to enter text.
City/Town Click here to enter text.	Province Click here to enter text.	Postal Code Click here to enter text.
Telephone Number Click here to enter text.	Email Click here to enter text.	
Signature of Organizational Representative or Individual: x _____		Date (yyyy-mm-dd) Click here to enter text.

Multilingual Translation Services: 311 and TTY 416-338-0889. For further information, consult this webpage: [Accessibility and Human Rights](#).