



AUDIT, FINANCE AND ADMINISTRATION COMMITTEE REPORT 19-011

**9:30 a.m.
August 15, 2019
Council Chambers
Hamilton City Hall**

Present: Councillors C. Collins (Chair), M. Wilson, B. Clark, M. Pearson B. Johnson, L. Ferguson and A. VanderBeek

Absent: Councillor J. Partridge – Bereavement

THE AUDIT, FINANCE AND ADMINISTRATION COMMITTEE PRESENTS REPORT 19-011, AND RESPECTFULLY RECOMMENDS:

1. Development Charges Reserves Status Report as of December 31, 2018 (FCS19064) (City Wide) (Item 7.1)

- (a) That Report FCS19064 “Development Charges Reserves Status Report as of December 31, 2018” be received and made available to the public; and,
- (b) That Report FCS19064 “Development Charges Reserves Status Report as of December 31, 2018” be forwarded, if requested, to the Ministry of Municipal Affairs and Housing.

2. Whistleblower, Fraud & Waste Information Update for Q2 2019 (AUD19012) (City Wide) (Item 7.2)

That Report AUD19012, respecting the Whistleblower, Fraud & Waste Information Update for Q2 2019, be received.

3. 2018 Reserve Report (FCS19062) (City Wide) (Item 10.1)

- (a) That the 2018 Reserve Report and the 2018 Reserves Detail Report, with 2017 Comparative figures and 2019-2021 Projections, attached as Appendix “A” to Report FCS19062, be approved;
- (b) That the reserves listed in Appendix “A” to Audit, Finance & Administration Report 19-011 be closed; and,
- (c) That a Climate Change Reserve #108062 be established with a sustainable funding source identified through the 2020 Budget process.

4. **Federation of Canadian Municipalities Voluntary Advocacy Fund Contribution (FCS19065) (City Wide) (Item 10.2)**

- (a) That \$45,200 be paid to the Federation of Canadian Municipalities Voluntary Advocacy Fund Contribution, with \$15,000 funded from the Legislative Budget, and \$30,200 funded from the Tax Stabilization Reserve (Account #110046); and,
- (b) That staff be directed to request from the Federation of Canadian Municipalities which other Municipalities are contributing to the Voluntary Advocacy Fund.

That Report FCS19065, respecting the Federation of Canadian Municipalities Voluntary Advocacy Fund Contribution, be received.

5. **Bill 108 “More Homes, More Choice Act, 2019” – Proposed Regulations Comment Submission Related to the Development Charges Act and Community Benefits Authority under the Planning Act (FCS19057(a) / LS19023(a)) (City Wide) (Item 10.3)**

- (a) That Council endorse the comments, recommendations and requests contained within Appendix “B” attached to Audit, Finance & Administration Report 19-011 related to the Province’s proposed changes to O. Reg. 82/98 under the *Development Charges Act* related to Schedule 3 of the *More Homes, More Choice Act, 2019*;
- (b) That the General Manager of Finance and Corporate Services be authorized and directed to submit to the Province, **a letter substantially in accordance with** the letter attached as Appendix “B” to Audit, Finance & Administration Report 19-011, as the City’s official comments related to the Province’s proposed changes to O. Reg. 82/98 under the *Development Charges Act* related to Schedule 3 of the *More Homes, More Choice Act, 2019*;
- (c) That Council endorse the comments, recommendations and requests contained within Appendix “C” attached to Audit, Finance & Administration Report 19-011 related to the Province’s proposed new regulation pertaining to the community benefits authority under the *Planning Act*;
- (d) That the General Manager of Finance and Corporate Services be authorized and directed to submit to the Province, **a letter substantially in accordance with** the letter attached as Appendix “C” to Audit, Finance & Administration Report 19-011, as the City’s official comments related to the Province’s proposed new regulation pertaining to the community benefits authority under the *Planning Act*;
- (e) That the General Manager of Finance and Corporate Services, in consultation with the City Solicitor, be authorized to make submissions on *Bill 108, More Homes, More Choice Act, 2019* and any associated

regulations consistent with the concerns raised in Report FCS19057(a) / LS19023(a) and Appendix “B” and Appendix “C” to Audit, Finance & Administration Report 19-011; and,

- (f) That the City Clerk forward this report to the Ministry of Municipal Affairs and Housing, the Ministry of Environment, Conservation and Parks, Hamilton’s Members of Provincial Parliament (Donna Skelly - Flamborough—Glanbrook, Andrea Horwath - Hamilton Centre, Paul Miller - Hamilton East—Stoney Creek, Monique Taylor - Hamilton Mountain and Sandy Shaw - Hamilton West—Ancaster—Dundas) and the Association of Municipalities Ontario.

6. Authority to Negotiate and Place a Debenture Issue(s) for CityHousing Hamilton Corporation (CHH) Projects (FCS19068) (CityWide) (Item 10.5)

- (a) That the General Manager, Finance and Corporate Services, be authorized to enter into and execute any necessary agreements, including any agreements with Infrastructure Ontario’s Loan Program, to secure the capital funding required for CityHousing Hamilton Corporation (CHH) projects as attached in Appendix “A” to Report FCS19068;
- (b) That the General Manager, Finance and Corporate Services, be authorized and directed to enter into and execute any necessary agreements to engage the services of all required persons, agencies and companies to negotiate and confirm the terms and issuance of all necessary debenture issue(s) including, but not limited to, external legal counsel, fiscal agents and financial professionals, to secure the capital funding required for CityHousing Hamilton Corporation (CHH) projects as attached in Appendix “A” to Report FCS19068;
- (c) That the General Manager, Finance and Corporate Services, be authorized to negotiate and confirm the terms and placement of all debenture issue(s), and / or private placement debenture issue(s), in either a public or private market and / or bank loan agreements and debenture issue(s) and / or variable interest rate bank loan agreements and debenture issue(s), in an amount not to exceed \$24,741,020 Canadian currency of CityHousing Hamilton for projects as attached in Appendix “A” to Report FCS19068;
- (d) That the Mayor and City Clerk be authorized and directed to enter into and / or execute, on behalf of the City of Hamilton, all agreements and necessary ancillary documents required for CityHousing Hamilton Corporation (CHH) projects as attached in Appendix “A” to Report FCS19068 including those required to secure and confirm the terms and issuance of any required debenture issue(s), with content acceptable to the General Manager, Finance and Corporate Services, and in a form satisfactory to the City Solicitor;
- (e) That staff be directed to prepare all necessary By-Law(s) to authorize and implement CityHousing Hamilton Corporation (CHH) projects as attached in

Appendix "A" to Report FCS19068 including those By-laws necessary to negotiate, place and secure all required capital funding; and,

- (f) That confidential Appendix "A" to Report FCS19068, respecting Authority to Negotiate and Place a Debenture Issue(s) for CityHousing Hamilton Corporation (CHH) Projects, remain confidential and not be released as a public document until the completion of the negotiation of the construction contracts and the completion of the purchase and sale agreement for projects as attached in Appendix "A" to Report FCS19068.

7. Audit and Accountability Fund Transfer Payment Agreement (FCS19059(a)) (City Wide) (Added Item 10.6)

- (a) That the Mayor and City Clerk be authorized and directed to sign a Transfer Payment Agreement substantially in the form and content attached as Appendix "D" to Audit, Finance & Administration Report 19-011 between the City of Hamilton and Her Majesty the Queen in right of Ontario as represented by the Minister of Municipal Affairs and Housing for the transfer of funds from the Audit and Accountability Fund, together with all necessary associated documents, in a form satisfactory to the City Solicitor and with content acceptable to the General Manager of Finance and Corporate Services;
- (b) That the By-law to Authorize the Signing of the Transfer Payment Agreement for the transfer of funds from the Audit and Accountability Fund between the Her Majesty the Queen in right of Ontario as represented by the Minister of Municipal Affairs and Housing and the City of Hamilton, attached as Appendix "B" to Report FCS19059(a), be approved; and,
- (c) That a certified copy of the approved by-law authorizing the signing of the Transfer Payment Agreement be forwarded to the Ministry of Municipal Affairs and Housing upon Council approval.

8. St. Joseph's Villa, Hospice Project SPA-17-205, Building Permit Application #18-137811-00R3 – Deferral Agreement (Item 11.2)

WHEREAS, St. Joseph's Villa Dundas in their letter dated July 24, 2019 (attached as Appendix 'E' to Audit, Finance & Administration Committee Report 19-011) are asking for the City's assistance with regards to their Municipal Development Charge Liability of \$237,350.20 for their 10-bed hospice development;

WHEREAS, City staff have received from the VP and CFO of St. Joseph's Villa Dundas a letter dated July 26, 2019 (attached as Appendix 'F' to Audit, Finance & Administration Committee Report 19-011) confirming that the Hospice will be located on St. Joseph's Villa land at 56 Governor's Rd., Dundas; and that St. Joseph's Villa will be the sole owner and operator of the Hospice with no commercial enterprise involved;

WHEREAS, City staff also received a Registered Charity Information Return confirming Non-Profit Status for St. Joseph's Villa Dundas for 2018; and,

WHEREAS, St. Joseph's Villa Dundas is a registered Non-Profit Charity; and, therefore, excluded from the City's policy regarding Development Charge Deferral Agreement Total Dollar Value Capacity Limits and *Municipal Act* Provisions regarding bonusing of For-Profit Commercial entities and, as such, is eligible for the Deferral Program;

THEREFORE, BE IT RESOLVED:

That the General Manager of Finance and Corporate Services be authorized and directed to enter into a 5-year Development Charge Deferral Agreement at Zero (0%) percent interest with St. Joseph's Villa Dundas for the Hospice Development, in the amount of \$237,350.20, in a form satisfactory to the City Solicitor.

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 2)

The Committee Clerk advised of the following changes to the agenda:

1. DELEGATION REQUESTS (Item 6)

6.1 Jaideo Debie, ArcelorMittal Long Product Canada, respecting the Raw Water Station Pump Upgrade at Woodward Avenue (For today's meeting)

2. DISCUSSION ITEMS (Item 10)

10.4 Management Update on Performance Audit Report 2015-02 - Claims Adjusters and Operations Efficiencies (Value for Money Audit) (FCS17016(a)) (City Wide) - WITHDRAWN

10.6 Audit and Accountability Fund Transfer Payment Agreement (FCS19059(a)) (City Wide)

3. MOTIONS (Item 11)

11.1 Restorative Practices Council and Senior Leadership Team Workshop - WITHDRAWN

4. NOTICES OF MOTION (Item 12)

12.1 Transit Program Initiative

5. PRIVATE & CONFIDENTIAL (Item 14)

14.2 Authority to Negotiate and Place a Debenture Issue(s) for CityHousing Hamilton Corporation (CHH) Projects (FCS19068) (CityWide)

Item 14.2 has been moved to Discussion Item 10.5 and only Appendix 'A' remains Confidential.

The agenda for the August 15, 2019 Audit, Finance and Administration Committee meeting was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 3)

Councillor Clark declared an interest in Item 8.1 a Delegation Request from Sean Ferris, Habitat for Humanity Hamilton, respecting reimbursement of specific fees paid to the City related to building permits for the construction of affordable housing, as he has an indirect, apparent conflict under common law due to a former professional relationship with Habitat for Humanity Hamilton.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)

(i) July 11, 2019 (Item 4.1)

The Minutes of the July 11, 2019 meeting of the Audit, Finance and Administration Committee were approved, as presented.

(d) DELEGATION REQUESTS (Item 6)

(i) Jaideo Debie, ArcelorMittal Long Product Canada, respecting the Raw Water Station Pump Upgrade at Woodward Avenue (For today's meeting) (Added Item 6.1)

The delegation request from Jaideo Debie, ArcelorMittal Long Product Canada, respecting the Raw Water Station Pump Upgrade at Woodward Avenue, was approved for today's meeting.

(e) PUBLIC HEARINGS / DELEGATIONS (Item 8)

(i) Sean Ferris, Habitat for Humanity Hamilton, respecting reimbursement of specific fees paid to the City related to building permits for the construction of affordable housing (Approved July 11, 2019) (Item 8.1)

Sean Ferris, Habitat for Humanity Hamilton, addressed the Committee respecting reimbursement of specific fees paid to the City related to building permits for the construction of affordable housing, with the aid of a presentation.

A copy of the presentation is available on the City's website at www.hamilton.ca or through the office of the City Clerk.

The delegation from Sean Ferris, Habitat for Humanity Hamilton, respecting reimbursement of specific fees paid to the City related to building permits for the construction of affordable housing, was received.

That staff be directed to report back to the September 19, 2019 Audit, Finance & Administration Committee meeting with recommendations and options for reduction of fees billed to Habitat for Humanity Hamilton, on construction of affordable housing.

(ii) Jaideo Debie, ArcelorMittal Long Product Canada, respecting the Raw Water Station Pump Upgrade at Woodward Avenue (Added Item 8.2)

Charles Fréchette, on behalf of Jaideo Debie, ArcelorMittal Long Product Canada, addressed the Committee respecting the Raw Water Station Pump Upgrade at Woodward Avenue, with the aid of a presentation.

A copy of the presentation is available on the City's website at www.hamilton.ca or through the office of the City Clerk.

The delegation from Charles Fréchette, ArcelorMittal Long Product Canada, respecting the Raw Water Station Pump Upgrade at Woodward Avenue, was received.

(f) DISCUSSION ITEMS (Item 10)

(i) 2018 Reserve Report (FCS19062) (City Wide) (Item 10.1)

That staff be directed to provide a summary of capital projects funded in whole, or in part, through the Federal Gas Tax proceeds as part of the 2020 tax supported budget process.

For disposition of this matter, refer to Item 3.

(ii) Bill 108 "More Homes, More Choice Act, 2019" – Proposed Regulations Comment Submission Related to the Development Charges Act and Community Benefits Authority under the Planning Act (FCS19057(a) / LS19023(a)) (City Wide) (Item 10.3)

That recommendations (b) and (d) to Report FCS19057(a)/LS19023(a), respecting Bill 108 "*More Homes, More Choice Act, 2019*" – Proposed Regulations Comment Submission Related to the *Development Charges*

Act and Community Benefits Authority under the *Planning Act*, be amended to include the wording '**a letter substantially in accordance with**', to read as follows:

- (b) That the General Manager of Finance and Corporate Services be authorized and directed to submit to the Province, **a letter substantially in accordance with** the letter attached as Appendix "A" to Report FCS19057(a) / LS19023(a), as the City's official comments related to the Province's proposed changes to O. Reg. 82/98 under the *Development Charges Act* related to Schedule 3 of the *More Homes, More Choice Act, 2019*;
- (d) That the General Manager of Finance and Corporate Services be authorized and directed to submit to the Province, **a letter substantially in accordance with** the letter attached as Appendix "B" to Report FCS19057(a) / LS19023(a), as the City's official comments related to the Province's proposed new regulation pertaining to the community benefits authority under the *Planning Act*,

For disposition of this matter, refer to Item 5.

(g) MOTIONS (Item 11)

(i) Transit Program Initiative (Added Item 11.3)

WHEREAS, the City of Hamilton has experienced extraordinary price increases for new buses while participating through the Transit Program Initiative, a program of Metrolinx; and,

WHEREAS, the City's transit strategy calls for an expansion of the transit fleet in support of the BLAST network;

THEREFORE, BE IT RESOLVED:

That staff be directed to report back to the Audit, Finance & Administration Committee on the quantitative and qualitative benefits, as well as deficiencies/short-comings of participating in the Transit Program Initiative.

(h) NOTICES OF MOTION (Item 12)

(i) Transit Program Initiative (Added Item 12.1)

Councillor Clark introduced his Notice of Motion respecting the Transit Program Initiative.

The rules of order were waived to allow for the introduction of a Motion respecting the Transit Program Initiative.

For disposition of this Item, refer to Item (g)(i).

(i) GENERAL INFORMATION / OTHER BUSINESS (Item 13)

(i) Amendments to the Outstanding Business List:

The following amendments to the Audit, Finance & Administration Committee's Outstanding Business List, were approved:

(a) Items to be Removed:

Item: 19-A

Correspondence from the Federation of Canadian Municipalities (FCM) respecting the 2019-2020 Membership Invoice - Advocacy Fund Contribution along with Appendix A
Item 10.2 on today's agenda

(j) PRIVATE AND CONFIDENTIAL (Item 14)

(i) July 11, 2019 – Closed Minutes (Item 14.1)

(a) The Closed Session Minutes of the July 11, 2019 Audit, Finance and Administration meeting, were approved as presented; and,

(b) The Closed Session Minutes of the July 11, 2019 Audit, Finance and Administration meeting, remain confidential.

(k) ADJOURNMENT (Item 15)

There being no further business, the Audit, Finance and Administration Committee, adjourned at 10:53 a.m.

Respectfully submitted,

Councillor Collins, Chair
Audit, Finance and Administration
Committee

Angela McRae
Legislative Coordinator
Office of the City Clerk

**2018 RESERVE REPORT
RESERVES RECOMMENDED FOR CLOSURE**

<u>Reserve #</u>	<u>Description</u>	<u>Balance Dec 31/2018</u> \$	<u>Projected Balance Dec 31/2019</u> \$	<u>Transfer to Reserve #/ Project #</u>	<u>Description</u>	<u>Reason for Closure</u>
<u>Healthy and Safe Community Reserves</u>						
104060	Golf Course Improvement Reserve	0	0	N/A	N/A	In 2018, the golf program was transferred from Public Works to Healthy and Safe Communities. After review of the golf program, staff in Healthy and Safe Communities Department has recommended this reserve for closure. Currently, the program does not run a surplus. Therefore, there is no dedicated funding source to maintain reserve sustainability. In years past, there has been minimal activity in this reserve. Closure of this reserve is consistent with Recommendation 4 of Appendix "A" to Report AUD17011 which recommends closure of low balance low activity reserves.
<u>Police Reserves</u>						
104056	Investigative Services Division (ISD) Reserve	152,797	0	N/A	N/A	This one-time reserve was established through year end police budget surpluses to act as a funding source for the ISD Building. Construction on the ISD building is well underway and the reserve has been fully utilized, with all funds transferred to the ISD project ID. Given the one-time reserve has served its purpose, it is recommended for closure.
<u>Transit Reserves</u>						
108027	Province of Ontario Transit Capital Grant	0	0	N/A	N/A	This one time reserve was established through PW08030 as a result of a grant from the Province in order to fund transit capital expansion and improve accessibility. As of 2018, all funds in this one time reserve have been spent. The reserve is recommended for closure.

**2018 RESERVE REPORT
RESERVES RECOMMENDED FOR CLOSURE**

<u>Reserve #</u>	<u>Description</u>	<u>Balance Dec 31/2018</u> \$	<u>Projected Balance Dec 31/2019</u> \$	<u>Transfer to Reserve #/ Project #</u>	<u>Description</u>	<u>Reason for Closure</u>
<u>Development Charge Reserves</u>						
110216	Special Area Charge Binbrook	4,381	0	N/A	N/A	The City has fully recovered the remaining outstanding Binbrook SAC balance (Phase 1) and the SAC is no longer collected. This one-time reserve has fulfilled its purpose and is recommended for closure. NOTE: For reporting purposes, this reserve as well as other Development Charge Reserves are "rolled up" under 999998 Developer Recoveries Reserves in the Reserve Book.
<u>Stabilization Reserves</u>						
110043	Commodity (Fuel) Stabilization Reserve	896,476	917,095	110046	Tax Stabilization Reserve	The Commodity Reserve was established in 2011 (Report FCS11032, GIC meeting of April 11, 2011) for the purpose of providing a contingency towards spikes in fuel prices being seen in 2011. Despite fluctuations in energy prices, the City departments have absorbed surpluses and deficits on an annual basis and have not used this reserve. Closure of this reserve is consistent with Recommendation 4 of Appendix "A" to Report AUD17011 which recommends closure of low balance low activity reserves.



Hamilton

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August 19, 2019

ERO Number: 019-0184

John Ballantine, Manager
Municipal Finance Policy Branch
Municipal Affairs and Housing
13th Floor, 777 Bay Street
Toronto, ON MSG 2E5

Dear Mr. Ballantine:

Subject: City of Hamilton Submission on Proposed changes to O. Reg. 82/98 under the Development Charges Act related to Schedule 3 of the *More Homes, More Choice Act, 2019*

Thank you for the opportunity to provide comments on the above-referenced proposal (the Proposal) under the *Development Charges Act* related to Bill 108 - *More Homes, More Choice Act, 2019* (the Act). Please accept the following comments for consideration.

First and foremost, the City requests the Province to release the full draft regulations for consultation. The proposed changes to O. Reg. 82/98 posted on the Environmental Registry have been provided in general terms and the full impact of the Proposal is not capable of being fully understood and assessed without the official language that will appear as written in the regulation. The City of Hamilton's (the City's) comments have been prepared based on a general interpretation of the Proposal. The City requests that once any draft regulations are completed they be posted and be subject to comments from all stakeholders.

Among all of the City's comments and requests below, there is one request so significant that the City implores the Province to review the risk to municipalities and work on a strategy to eliminate the risk. The risk being referred to is the risk of a development being sold between building permit issuance and the final DC instalment payment. The Province has not provided municipalities with a tool to ensure that an instrument can be registered on title notifying property purchasers that development on a property was subject to DCs payable through instalments and that instalments remain outstanding. Without such a tool, municipalities will face challenges related to any DC or instalments of a DC due after a sale.

For ease of review, the City's comments respond to the same five categories set out in the Proposal.

1. Transition

The Proposal provides that the prescribed date by which a municipality must adopt a community benefits charges (CBC) by-law will be January 1, 2021, after which point, a development charge (DC) for soft services may no longer be imposed. However, despite content in Schedule 12 of the Act which indicates a municipality will be required to prepare a strategy before passing a CBC by-law pursuant to prescribed requirements, no such requirements have been described in the Proposal or in the description of the regulation pertaining to the community benefits authority under the Planning Act (ERO Number 019-0183).

The City comments that without a full understanding of what is required in a CBC By-law the timeline proposed may be unachievable. For example, the City commenced the 2019 DC Background Study in January 2018 and it was adopted 17 months later in June 2019. If a similar calculation process is required, or a calculation process is proposed for which existing data is not readily available, there is a concern that the proposed timeline will not be achievable. Municipalities that have recently dedicated resources to a soft service DC calculation will again be required to dedicate resources to the CBC calculation. The cost of undertaking studies and the use of consultants (if necessary) are passed through the DCs, or presumably the CBC and thus, act counter to the Province’s goals of reducing costs of development.

The City requests that the prescribed date be set at January 1, 2024 to recognize the cost and efforts spent on recently updated DC studies and allow municipalities to plan for the cost and effort of a CBC calculation at a time that would somewhat align with the next scheduled cycle of DC By-law updates.

2. Scope of Types of Development Subject to Development Charges Deferral

The Proposal contains definitions for non-profit housing, institutional development, industrial development and commercial development.

Non-Profit Housing

The Proposal appears to be attempting to align the payments of DCs for non-profit housing developments with affordable housing programs but currently there appear to be significant gaps that expose municipalities to risk.

The definition and *Development Charges Act, 1997*, S.O. c1997 c.27 (DC Act) do not appear to contemplate dwellings developed and then sold by non-profit corporations. In other words, what happens if the development is sold by the non-profit corporation prior to the payment of all DC instalments?

Letter to Municipal Affairs and Housing

August 19, 2019

There is no ability to register an instrument on title in order to notify and bind future purchasers in respect of unpaid DC instalments or restrict the sale of a property until unpaid DC instalments are paid.

It is unclear who is legally obligated to pay the DC, the developer or the purchaser? Subsections 26.1(1), (2), (3) as added by the Act to the DC Act do not refer to an identified person as having to pay, rather, they provide that the DC is payable in instalments for certain developments. Section 2 of the DC Act imposes the DC on the land and not a person. So, the question becomes who is the “person” legally obligated to pay the DC? If the DC applies to the land, then the ability to register an instrument on title providing notice of DCs payable by instalments should be provided to municipalities.

In the above case of a dwelling developed and sold by a non-profit, if the non-profit corporation is responsible for the instalments then there is a risk of non-payment without any security as the asset is no longer owned. Through the Act, any unpaid instalments shall be added to the tax roll which suggests that the current owner of the property is responsible for instalments. However, under the Act, the DC Act, and the Proposal, an owner is under no obligation to notify the City of a sale or a purchaser of remaining DC instalments. If the current owner is responsible for the instalments, then a purchaser may be required to pay DC instalments without previous notice.

As stated above, the Act does not provide for any type of DC notice to be registered on the property. There is a risk that a purchaser could be unaware of DCs deferred and not have budgeted accordingly. This situation could be counter to the goal of increasing the affordability of housing as it will be a payment required in addition to a mortgage and property taxes at an interest rate that the individual purchaser was not able to negotiate, for a term that may be less than their mortgage term.

The City requests the Province define “person”, e.g. the person required to pay a DC and the person required to provide notice of occupancy.

The City requests the Province provide a tool to allow municipalities to register notice of deferred DCs on title, prior to issuance of the building permit and require full payment of any unpaid DCs, including interest, prior to any sale.

The City requests the Province to further define non-profit housing to apply only to developments that are receiving construction or on-going operating funding through a government housing affordability program.

Institutional Development

The Proposal has defined institutional development with terms that require further definition.

Letter to Municipal Affairs and Housing

August 19, 2019

Long-term Care Homes

The City requests that the Province define “long-term care home” as “a long-term care home as defined in the *Long-Term Care Homes Act, 2007*, S.O. 2007, c.8”.

Retirement Homes

The City comments that there is a wide spectrum of developments that can fall under this general term and it can sometimes include 55+ buildings that essentially are just luxury condos for a specific age group but function and have impacts just like any other condo building. An example from downtown Burlington can be reviewed at the following link: <https://www.pearlandpineretirement.com/>.

The City requests that the Province define “retirement home” as “a retirement home as defined in the *Retirement Homes Act, 2010*, S.O. 2010, c. 11”.

Universities and Colleges

The Proposal includes “universities and colleges” as “Institutional Development”.

The City comments that “universities and colleges” appears to be a broad category without any guidance provided as to the scope of the intent of the meaning of “universities and colleges”. Are the following included within the meaning of “universities and colleges”: privately funded colleges and universities, developments which are public-private partnerships, i.e., university / college partnerships with private developers, developments owned by others but used by a university or college? Is the meaning of “universities and colleges” restricted to certain types of development such as academic facilities, research facilities, student residences or facilities which have mix of the foregoing?

The City comments that the courts have confirmed that colleges established under the *Ministry of Colleges and Universities Act, R.S.O. 1990, c. M.19* are crown agents and unless explicitly stated in legislation, they are not bound by it. The Planning Act and the amendments thereto found in the Act do not appear to expressly bind colleges, the Crown or any Crown agents and therefore, colleges would not be obligated to pay a DC. Accordingly, it is unclear why colleges are listed as exempt.

The City requests that the Province define “universities and colleges” and that it only apply to developments solely owned by such organizations for the specific uses that the Act intends to include.

Letter to Municipal Affairs and Housing

August 19, 2019

Memorial Homes, Clubhouses or Athletic Grounds of the Royal Canadian Legion

The City comments that it is unclear if memorial home and clubhouses by groups other than the Royal Canadian Legion are intended to be included in the definition. It is unclear what a memorial home or clubhouse is.

The City requests that the Province define and provide clarity for “memorial homes, clubhouses, or athletic grounds of the Royal Canadian Legion”.

Hospices

The City requests that the Province define “hospice”.

Industrial Development

The City comments that the definition of industrial development differs from the existing definition of “existing industrial building” contained within O. Reg. 82/98. Two definitions related to industrial within the same Act may be confusing to the development community and municipalities. The definition of industrial development within the Proposal excludes storage and distribution compared to the existing definition of “existing industrial building” contained within O. Reg. 82/98. The City is supportive of storage and distribution buildings being excluded from the definition.

The City requests that the definition of “existing industrial building” contained within O. Reg. 82/98 be updated to align with the proposed definition of “Industrial development”.

Commercial Development

The Proposal has defined commercial development to include only office buildings and shopping centres as defined in specific sections of O. Reg 282/98 under the *Assessment Act*.

The City comments that the office building class and the shopping centre class of O. Reg 282/98 under the *Assessment Act* only apply to the portion of a building in excess of 25,000 square feet but the proposed change to O. Reg 82/98 appears to refer to the entire building.

The City comments that shopping centres follow the population, meaning that once there is sufficient population to support the business, shopping centres will be constructed. Shopping centres do not require DCs to be deferred.

The City requests the Province to edit the definition of office development within the definition of “commercial development” to only include the portion of an office building in excess of 25,000 square feet.

Letter to Municipal Affairs and Housing

August 19, 2019

The City requests the Province remove shopping centres from the definition of commercial development.

Rental Housing

The Proposal has not defined rental housing which is another use that the Act requires DCs to be paid through six annual instalments.

The City comments that a definition is required to determine if condominium buildings wherein all units are owned by one entity or related entities and which are built for rental purposes would fall into the definition of rental housing. This situation is common with new rental construction and allows the owner to easily sell off units or convert the building to ownership with little control from the City.

The City comments that where a project may be converted to a condominium occurs after building permit issuance, meaning that a developer may proceed with a “rental” project and effectively defer DCs until a condominium conversion occurs.

The City requests the Province to define “rental housing” to exclude any project which is subject of an application for approval of a condominium, or that is registered as a condominium, and to provide a punitive tool for developments that identified themselves as rentals and later register as a condominium.

Other Comments Related to Instalment Payments

The City comments that the provision for the payment of DCs by instalments for each of industrial, institutional and commercial development has not appeared to contemplate developments that are sold between building permit issuance and the final DC instalment due date.

The City comments that the administration of DC instalments plans will be an additional function and cost that will be required of municipalities. This cost will need to be covered by existing taxpayers since general administration is an ineligible cost under the DC Act. This additional cost through property taxes is inconsistent with the goal of increasing housing affordability.

The City requests the Province define “person”, e.g. the person required to pay a DC and the person required to provide notice of occupancy.

The City requests the Province provide a tool to allow municipalities to register notice of deferred DCs on title, prior to issuance of the building permit and require full payment of any unpaid DCs, including interest, prior to any sale of the building.

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3. Period of Time for Which the Development Charge Freeze Would be in Place

The Proposal provides that DCs would be frozen at the later of site plan or zoning application date for two years after the approval of said application.

The City comments that the majority of proposed developments within the City move from approval to building permit in under a year. In order to meet the goal of encouraging developments to proceed to building permit stage faster than they are currently developing, the time period that the rates are frozen must be less than the time period currently experienced.

The City comments that the time between site plan or zoning application and approval of that application is not entirely within the control of municipalities. A municipality's tools are limited in respect of enforcing developers to proceed in a timely manner to the approval stage. This creates a risk for municipalities. An applicant may rush submitting their application pre-maturely in order to “lock in” the DC rate, despite not being ready to finalize their plans and proceed to building. There is then no impetus on the applicant to move quickly to satisfy any conditions of approval. In fact, it may be in the applicant's best interest to delay approval, so that the two-year post-approval clock does not start ticking.

For example, a developer may know they want to build something in five years, so they apply for a zoning now and that sets the DC at today's rate. As the City requests information or additional studies in order to be in a position to approve the zoning application, a developer could be non-responsive for a couple of years because they don't actually want approval yet. Municipalities will be faced with a choice of allowing this to continue indefinitely or proceeding with a refusal to Council in order to protect the City's financial interests and such refusal would be appealable to LPAT.

To address this concern, the City requests a number of changes.

The City requests that the Province define the application date for site plan and zoning amendment as the date that the application is deemed a complete application.

The City requests that the Province prescribe the period that DC rates would be frozen as nine months from site plan or zoning approval to encourage developments to move through the building permit state faster while providing the predictability of costs.

The City comments that the concept of holding provisions, site plan amendments and minor variances in relation to the approval date has not been addressed in the Proposal. The City requests that the Province clarify that the approval date is the first date of approval and that the lifting of holding provisions, site plan amendments or minor variance requests have no impact on the approval date.

The City requests the Province to close the loop-hole that could promote application for site plan or zoning years before a project is realistically ready to proceed through the development process by either amending the DC Act or by the Planning Act. For example,

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prescribe a maximum period of time (one year) that can elapse between site plan / zoning application date and Building Permit approval before triggering an adjustment to the DC rate or provide for the expiration of applications if they are not finalized within a prescribed period of time.

4. Interest Rate During Deferral and Freeze of Development Charges

The Proposal specifies that no maximum interest rate will be prescribed.

The City comments that the flexibility to establish an appropriate interest rate is a reasonable and desired approach.

5. Additional Dwelling Units

The Proposal provides that the “exception relating to the creation of additional dwelling units” in O. Reg 82/98 be amended:

- so that units could also be created within ancillary structures to these existing dwellings without triggering a development charge (subject to the same rules / restrictions).
- so that one additional unit in a new single-detached dwelling, semi-detached dwelling and row dwelling, including in a structure ancillary to one of these dwellings, would be exempt from development charges.
- so that within other existing residential buildings, the creation of additional units comprising 1% of existing units would be exempt from development charges.

The City comments that previously, through the comments to Schedule 3 of the Act, the City requested that the regulation expressly:

- (1) limit the number and size of additional / secondary dwelling units; and
- (2) limit the classes of housing types that they can be located in; and
- (3) prevent unintended units from qualifying (e.g. ensuring that stacked townhouses continue to be charged per dwelling and are not captured in the “one additional dwelling per row dwelling” statutory exemption category). Without the full draft regulation, the City is not assured that this request has been met.

The City comments that additional statutory exemptions do not reduce the costs necessary to provide infrastructure. If municipalities are not able to collect for DC eligible growth infrastructure on a “growth pay for growth” basis, the cost that cannot be collected through the DC will be added to property taxes or service levels will decrease. An increase in property taxes is counter to the goal of increasing housing affordability.

The City requests the Province to release the full draft Regulation for consultation.

The City requests the Province permit a DC to be charged when a lot is severed after having received a DC exemption for a dwelling unit ancillary to another dwelling. This

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request is to address the risk that a lot which is developed with two dwellings which will ultimately be on their own lots is not able to benefit from the statutory additional dwellings exemption.

The City requests the Province to clarify how stacked townhouses and back-to-back townhouses will be dealt with in the regulation regarding additional dwelling units.

The City requests the Province to permit statutory exemptions to be adjusted for through the calculation of the per-unit DC.

Notwithstanding the above and to reiterate the City’s opening comment, the Province has not yet released full draft regulations. The City’s comments have been prepared based on limited interpretations of the proposed regulation content. The full impact of the Proposal cannot be understood and assessed without the official language that will appear as written in the regulation. The City requests further consultation to provide feedback on the full draft regulations.

The City remains concerned with changes imposed by the Act and submits that at this point, absent the release of the draft regulations, the Act and Proposal do not ensure the promise of revenue neutrality. The changes are a significant departure from the current legislative framework and undermine an effective tool for creating vibrant communities. Reducing development charges will not make housing more affordable. Restricting cost recovery tools does not guarantee lower house prices. House prices are set by the market. The changes through the Act will require extensive administration, delay cash flow needed to install infrastructure and expose municipalities to collection risks. If more municipal operating revenues are needed to cover the cost of growth, it will be at the expense of maintaining existing capital assets, levels of services or current property tax rates.

For greater emphasis, the City submits that purchase price is only one element of affordability. Property tax rates factor into the carrying costs of a property and hence, its affordability. The changes proposed by the Province may result in increased property taxes, making it less affordable for residents to live in their homes or for businesses / industries to stay in their locations or expand their operations.

Thank you again for the opportunity to provide meaningful input into this review. The City looks forward to further review and consultation towards the development of the final Regulations. City of Hamilton staff would be pleased to meet with you to discuss these comments in greater detail.

Yours truly,

Mike Zegarac
General Manager
Corporate Services Department

Appendix “C” to Item 5 of Audit, Finance & Administration Report 19-011
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Hamilton

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Hamilton, Ontario
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August 19, 2019

ERO Number: 019-0183

John Ballantine, Manager
Municipal Finance Policy Branch
Municipal Affairs and Housing
13th Floor, 777 Bay Street
Toronto, ON MSG 2E5

Dear Mr. Ballantine:

Subject: City of Hamilton Submission on Proposed New Regulation Pertaining to the Community Benefits Authority under the Planning Act

Thank you for the opportunity to provide comments on the above-referenced proposal (the Proposal) relating to the *More Homes, More Choice Act, 2019* (the Act). Please accept the following comments for consideration.

First and foremost, the City requests the Province to release the full draft Regulation for consultation. The Proposal is a description provided in general terms. The full impact of the Proposal is not capable of being understood or assessed without the official language that will appear as written in the Regulation. The City of Hamilton’s (the City’s) comments have been prepared based on a general interpretation of the Proposal. The City requests that once any draft regulations are completed, they be posted and be subject to comments from all stakeholders.

For ease of review, the City’s comments respond to the same eight categories set out in Proposal.

1. Transition

The Proposal provides that the prescribed date by which a municipality must adopt a community benefits charges (CBC) by-law by will be January 1, 2021, after which point, a development charge (DC) for soft services may no longer be imposed.

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The City comments that, without a full understanding of what is required in a CBC By-law, the prescribed date by which one has to be passed may be unachievable. For example, the City commenced the 2019 DC Background Study in January 2018 and it was adopted 17 months later in June 2019. If a similar calculation process is required, or a calculation process is proposed for which existing data is not readily available, there is a concern that the proposed timeline will not be achievable. Municipalities that have recently dedicated resources to a soft service DC calculation will again be required to dedicate resources to the CBC calculation. The cost of undertaking studies and the use of consultants (if necessary) are passed through the DCs, or presumably the CBC, thus acting counter to the Provincial goals of reducing costs of development. Furthermore, other Bills, such as Bill 6, are already requiring substantial municipal resources which are limited.

The City requests that the prescribed date be set at January 1, 2024 to recognize the cost and efforts spent on recently updated DC studies and allow municipalities to plan for the cost and effort of a CBC calculation at a time that would somewhat align with the next scheduled cycle of DC by-law updates.

2. Reporting on Community Benefits

The Proposal provides that annual reporting requirements would be similar to the existing reporting requirements for development charges and parkland under section 42 of the *Planning Act*.

The City comments that annual reporting of detail as described is appropriate and is consistent with the City's priorities and culture statements embedded in the City's 2016-2025 Strategic Plan.

The City comments, that since a draft regulation has not been released, a complete and detailed comment on this portion of the Proposal cannot be made.

The City requests the Province to release the full draft regulation for consultation and comment.

3. Reporting on Parkland

The Proposal provides that annual reporting requirements would be prescribed for municipalities with parkland special accounts.

The City comments that annual reporting of detail as described is appropriate and is consistent with the City's priorities and culture statements embedded in the City's 2016-2025 Strategic Plan.

The City comments, that since a draft regulation has not been released, a complete and detailed comment on this portion of the Proposal cannot be made.

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The City requests the Province to release the full regulation for consultation and comment.

4. Exemptions from Community Benefits

The Proposal has identified six forms of development that would be exempt from community benefits charges.

The City comments that the Province has listed types of development without clear definitions of the terms. The lack of the provision of definitions raises a number of general concerns including:

- (a) the scope and breath of the interpretation of the categories;
- (b) if left undefined, disputes are likely to arise as to their interpretation; and
- (c) if they are defined in the forthcoming regulations the City will not have been provided the opportunity to comment on the definitions.

More specifically, the proposed exemptions include “universities and colleges”. This appears to be a broad category without any guidance provided as to the scope of the intent of the meaning of “universities and colleges”. Are the following included within the meaning of “universities and colleges”: privately funded colleges and universities, developments which are public-private partnerships i.e. university / college partnerships with private developers, developments owned by others but used by a university or college? Is the meaning of “universities and colleges” restricted to certain types of development such as academic facilities, research facilities, student residences or facilities which have mix of the foregoing?

The courts have confirmed that colleges established under the *Ministry of Colleges and Universities Act*, R.S.O. 1990, c. M.19 are crown agents and unless explicitly stated in legislation, they are not bound by it. The *Planning Act* and the amendments thereto found in the Act do not appear to expressly bind colleges, the Crown or any Crown agents and therefore, colleges would not be obligated to pay a DC. Accordingly, it is unclear why colleges are listed as exempt.

It is unclear if memorial home and clubhouses by groups other than the Royal Canadian Legion are intended to be included in the definition. It is unclear what a memorial home or clubhouse is.

The City requests the Province definition each use and to release the full Regulation for consultation.

The City requests that the Province define “long-term care home” as “a long-term care home as defined in the *Long-Term Care Homes Act, 2007*, S.O. 2007, c.8”.

The City requests that the Province define “retirement home” as “a retirement home as defined in the *Retirement Homes Act, 2010*, S.O. 2010, c. 11”.

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The City requests that the Province define “universities and colleges” and that it only apply to developments solely owned by such organizations for the specific uses that the Act intends to include.

The City requests that the Province define and provide clarity for “memorial homes, clubhouses or athletic grounds of the Royal Canadian Legion”.

The City requests that the Province define “hospice”.

The City requests the Province to define “non-profit housing” to apply only to developments that are receiving construction or on-going operating funding through a government housing affordability program.

5. Community Benefits Formula

The Proposal has requested input on varying percentages to use for land values to maintain the historical municipal revenues. The Proposal has also provided that further consultation will occur later this summer.

The City comments that land values vary significantly across the Province and within each municipality which is presumably part of the reason varying percentages are being considered. Construction values, however, vary less across the Province than land values. This concern was included in the City’s comments respecting Bill 108 and the same concern was echoed by the submission of other municipalities in regard to Bill 108. The City understands that the intent of a CBC is to cover the costs of growth-related projects such as parks, recreation facilities, libraries, etc. All of these have a land purchase component and a construction component when being undertaken by a municipality. A CBC calculation methodology should reflect both components.

The City comments that there may be cases where a municipality may experience a need for additional ‘soft services’ in a specific section of the City and a CBC calculation methodology should permit municipalities to factor this need in to the calculation by permitting area-specific calculations of CBCs.

The Proposal only seeks for input on percentages of land value. While the City has undertaken some analysis to provide input, the City is not supportive of a methodology based on land values due to a disconnection between land values and the services that would be funded with a CBC. Services are provided based on population which is reflected in the current DC methodology.

There can be significant differences in land values due to location, density, land size and land use. Within the City, the value per acre is between \$400,000 per acre to \$12,000,000 per acre when adjusting for each of the factors. This variance still exists, but to a lesser extent, if the land use is taken into consideration:

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Residential* - \$750,000 to \$12,000,000 per acre

- Low density residential - \$750,000 to \$1,200,000 per acre
- Medium density residential - \$800,000 to \$3,000,000 per acre
- High density residential, downtown – \$4,000,000 to \$12,000,000 per acre
- High density residential, not downtown - \$1,250,000 to \$7,000,000 per acre

Industrial - \$400,000 to \$1,500,000 per acre

Commercial - \$750,000 to \$3,000,000 per acre

** Excludes single-detached dwelling building lots, which can vary from \$5,000 to \$11,000 per front foot*

The City comments that based on a review of sample projects, the parkland dedication cash-in-lieu and soft service DCs made up between 9% - 75% of the percentage of land value. This is based on a limited sample and the City will be undertaking further analysis to contribute to additional consultation.

The City comments that, while the methodology of cap based on land value is flawed, the flaw is even more pronounced when considering expansions of existing developments and redevelopment of land. The land value encompasses the entire site and may discourage expansions of existing non-residential developments or redevelopments of residential land if the existing and former uses are not factored into the calculation and cap. These outcomes are counter to the goals of increasing housing supply and would encourage sprawl over redevelopment of underutilized lands. In order to encourage redevelopment, the existing land use needs to be considered in a CBC calculation and cap.

The City requests the Province consider different land use categories, residential densities and land sizes when exploring options for establishing the cap of a CBC as a percentage of land value during the consultation this summer explicitly.

The City requests the Province consider a two-step CBC calculation methodology. The first being a land-based component and the second being a construction-based component. A two-step calculation would reflect the notion of construction costs being relatively stable across the province while land values can vary significantly.

The City requests the Province allow for area-specific CBC calculations within a municipality.

The City requests the Province establish a CBC calculation and cap that adjusts for any existing, legally established, use of the land.

The City requests the Province establish a CBC calculation methodology that connects the services being funded from a CBC to the development that is driving the need for increases in those services. The existing DC methodology, without the 10% statutory deduction and adjusted for the uses that the Province is mandating as exempt, is one option to consider.

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The City is not making any specific percentage requests related to this matter, at this time, due to the limited information provided through the Proposal and will look forward to further consultation this summer.

6. Appraisals for Community Benefits

The Proposal describes a process by which a community benefit charge can be challenged and which involves up to three land appraisals.

The City comments that the current cost of an appraisal is estimated at a minimum \$6,000 per appraisal. The proposed process will be administratively onerous and expensive for the developer and the municipality. It is unclear whether the costs appraisals can be recovered through the CBC calculation.

The City comments that not all developments utilize the land at the highest and best use. A land valuation considers the highest and best use. An express statement should be provided that appraisals, through the payment in protest process, are to consider the highest and best use, not the specific development being constructed.

The City comments that the Province has not provided a clear indication of when each time period starts. For appraisals required after the initial appraisal, will the prescribed time period commence from the CBC payment date or from the date of receipt of the preceding appraisal?

The City requests the Province to provide that municipal appraisal costs can be included in the determination of a CBC and also requests clarity on the date that each prescribed amount of time is measured from.

The City requests the Province to provide an express statement that appraisals, through the payment in protest process, are to consider the highest and best use of the land, not the specific development being constructed.

7. Excluded Services for Community Benefits

The Proposal provides that several services be excluded from community benefits. The excluded services align with the excluded services list in the *Development Charges Act, 1997, S.O. 1997, c.27 (DC Act)* as amended by the Act.

The City comments that the effort to retain the ability to collect for the same services collected for under the existing DC Act and parkland dedication tool is appreciated. However, there are services that municipalities are not able to collect for through the existing DC Act which are the services listed as being excluded from a community benefits charge.

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The City comments that the DC Act explicitly listed library collection materials as eligible. Library collection materials are not specifically identified in the Proposal.

The City comments that all costs associated with servicing future growth should be eligible for consideration in a community benefit charge calculation. There should not be any excluded services unless it can be demonstrated that there are environmental benefits or other “greater-good” benefits to excluding such service. The City agrees that landfill sites and services and facilities for the treatment of waste is reasonable to be excluded from a community benefits charges.

The City requests the Province to only list “landfill sites and services” and “facilities for the treatment of waste” in the list of services excluded for community benefits.

The City requests the Province to clarify that library collection materials are eligible for funding from a CBC.

8. Community Planning Permit System

The Proposal provides that a community benefits charges by-law would not be available for use in areas within a municipality where a community planning permit system is in effect.

The City comments that the intent to prevent a doubling up of fees between a community planning permit system and a CBC is noted.

The City comments that while community planning permit systems are not currently in use, the option of a community planning permit system for future growth is being considered.

The City comments that without understanding how a CBC is to be calculated, it is unclear whether revenue neutrality can be achieved when comparing value obtained through a community planning permit system with the value collected through a CBC.

The City requests the Province release the full CBC calculation methodology and full regulations for comment.

Notwithstanding the above, and to reiterate the City’s opening comment, the Province has not yet released full draft regulations. The City’s comments have been prepared based on general interpretations of the Proposal. The full impact of the Proposal cannot be determined without disclosure of the actual draft regulation. The City requests further consultation to provide feedback on the complete draft regulations.

The City remains concerned with changes imposed by the Act and submits that at this point, absent the release of the draft regulations, the Act and Proposal do not ensure the promise of revenue neutrality. The changes are a significant departure from the current legislative framework and undermine an effective tool for creating vibrant communities.

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Reducing development charges will not make housing more affordable. Restricting cost recovery tools does not guarantee lower house prices. House prices are set by the market.

The changes through the Act will require extensive administration, delay cash flow needed to install infrastructure and expose municipalities to collection risks. If more municipal operating revenues are needed to cover the cost of growth, it will be at the expense of maintaining existing capital assets, levels of services, or current property tax rates. For greater emphasis, the City submits that purchase price is only one element of affordability. Property taxation rates factor into the carrying costs of a property and hence its affordability. The changes proposed by the Province may result in increased property taxes making it less affordable for residents to live in their homes or for businesses / industries to stay in their locations or expand their operations.

Thank you again for the opportunity to provide meaningful input into this review. The City looks forward to further review and consultation towards the development of the final Regulations. City of Hamilton staff would be pleased to meet with you to discuss these comments in greater detail.

Yours truly,

Mike Zegarac
General Manager
Corporate Services Department

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Municipal Affairs and
Housing**

(the "Province")

- and -

City of Hamilton

(the "Recipient")

CONSIDERATION

In consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 The agreement, together with:

- Schedule "A" - General Terms and Conditions
 - Schedule "B" - Project Specific Information and Additional Provisions
 - Schedule "C" - Project
 - Schedule "D" - Budget
 - Schedule "E" - Payment Plan
 - Schedule "F" - Reports, and
- any amending agreement entered into as provided for in section 4.1,

constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule "A", the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule "A"; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule "A", the Additional Provisions will prevail over the provisions in Schedule "A" to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 The Recipient acknowledges that:

- (a) by receiving Funds it may become subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the *Broader Public Sector Accountability Act, 2010* (Ontario), the *Public Sector Salary Disclosure Act, 1996* (Ontario), and the *Auditor General Act* (Ontario);
- (b) Her Majesty the Queen in right of Ontario has issued expenses, perquisites, and procurement directives and guidelines pursuant to the *Broader Public Sector Accountability Act, 2010* (Ontario);
- (c) the Funds are:
 - (i) to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
 - (ii) funding for the purposes of the *Public Sector Salary Disclosure Act, 1996* (Ontario);
- (d) the Province is not responsible for carrying out the Project; and

- (e) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by Minister of Municipal
Affairs and Housing**

Date

Name: The Honourable Steve Clark
Title: Minister of Municipal Affairs and Housing

City of Hamilton

Date

Name:
Title:

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A13.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, Her ministers, agents, appointees, and employees.

“Maximum Funds” means the maximum Funds set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A13.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A13.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Project” means the undertaking described in Schedule “C”.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (b) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 Execution of Agreement. The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and

- (b) taken all necessary actions to authorize the execution of the Agreement, including passing a municipal by-law authorizing the Recipient to enter into the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) procedures to enable the Recipient to manage Funds prudently and effectively;
- (b) procedures to enable the Recipient to complete the Project successfully;
- (c) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (d) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (e) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0, Article A12.0, or Article A13.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule "E"; and
- (c) deposit the Funds into an account designated by the Recipient provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 Limitation on Payment of Funds. Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides evidence satisfactory to the Province that the Recipient's council has authorized the execution of this Agreement by the Recipient by municipal by-law;
- (b) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (c) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project;
- (d) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province's assessment of the information the Recipient provides to the Province pursuant to section A7.1; or
- (e) if, pursuant to the *Financial Administration Act (Ontario)*, the Province does not receive the necessary appropriation from the Ontario Legislature for payment under the Agreement, the Province is not obligated to make any such payment, and, as a consequence, the Province may:
 - (i) reduce the amount of Funds and, in consultation with the Recipient, change the Project; or
 - (ii) terminate the Agreement pursuant to section A12.1.

A4.3 Use of Funds and Carry Out the Project. The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;
- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 Interest Bearing Account. If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 Interest. If the Recipient earns any interest on the Funds, the Province may:

- (a) deduct an amount equal to the interest from any further instalments of Funds; or
- (b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Ministry will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will do so through a process that promotes the best value for money.

A5.2 **Disposal.** The Recipient will not, without the Province's prior written consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest.

A6.2 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.3 **Disclosure to Province.** The Recipient will:

- (a) disclose to the Province, without delay, any situation that a reasonable person would interpret as an actual, potential, or perceived conflict of interest; and
- (b) comply with any terms and conditions that the Province may prescribe as a result of the disclosure.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 Preparation and Submission. The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1, all Reports in accordance with the timelines and content requirements as provided for in Schedule "F", or in a form as specified by the Province from time to time;
- (b) submit to the Province at the address referred to in section A17.1, any other reports as may be requested by the Province in accordance with the timelines and content requirements specified by the Province;
- (c) ensure that all Reports and other reports are completed to the satisfaction of the Province; and
- (d) ensure that all Reports and other reports are signed on behalf of the Recipient by an authorized signing officer.

A7.2 Record Maintenance. The Recipient will keep and maintain:

- (a) all financial records (including invoices) relating to the Funds or otherwise to the Project in a manner consistent with generally accepted accounting principles; and
- (b) all non-financial documents and records relating to the Funds or otherwise to the Project.

A7.3 Inspection. The Province, any authorized representative, or any independent auditor identified by the Province may, at the Province's expense, upon twenty-four hours' Notice to the Recipient and during normal business hours, enter upon the Recipient's premises to review the progress of the Project and the Recipient's allocation and expenditure of the Funds and, for these purposes, the Province, any authorized representative, or any independent auditor identified by the Province may take one or more of the following actions:

- (a) inspect and copy the records and documents referred to in section A7.2;
- (b) remove any copies made pursuant to section A7.3(a) from the Recipient's premises; and
- (c) conduct an audit or investigation of the Recipient in respect of the expenditure of the Funds, the Project, or both.

A7.4 Disclosure. To assist in respect of the rights provided for in section A7.3, the Recipient will disclose any information requested by the Province, any authorized representatives, or any independent auditor identified by the Province, and will do so in the form requested by the Province, any authorized

representative, or any independent auditor identified by the Province, as the case may be.

A7.5 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.6 **Auditor General.** The Province's rights under Article A7.0 are in addition to any rights provided to the Auditor General pursuant to section 9.1 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 **Acknowledge Support.** Unless otherwise directed by the Province, the Recipient will:

- (a) acknowledge the support of the Province for the Project; and
- (b) ensure that the acknowledgement referred to in section A8.1(a) is in a form and manner as directed by the Province.

A8.2 **Publication.** The Recipient will indicate, in any of its Project-related publications, whether written, oral, or visual, that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 **Indemnification.** The Recipient will indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages, and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits, or other proceedings, by whomever made, sustained, incurred, brought, or prosecuted, in any way arising out of or in connection with the Project or otherwise in connection with the Agreement, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 **Recipient's Insurance.** The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence. The insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under,

or otherwise in connection with, the Agreement;

- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) upon the request of the Province, provide to the Province a copy of any insurance policy.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving at least 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and
 - (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 TERMINATION WHERE NO APPROPRIATION

A12.1 Termination Where No Appropriation. If, as provided for in section A4.2(e), the Province does not receive the necessary appropriation from the Ontario Legislature for any payment the Province is to make pursuant to the

Agreement, the Province may terminate the Agreement immediately without liability, penalty, or costs by giving Notice to the Recipient.

A12.2 Consequences of Termination Where No Appropriation. If the Province terminates the Agreement pursuant to section A12.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project and permit the Recipient to offset such costs against the amount owing pursuant to section A12.2(b).

A12.3 No Additional Funds. If, pursuant to section A12.2(c), the Province determines that the costs to wind down the Project exceed the Funds remaining in the possession or under the control of the Recipient, the Province will not provide additional Funds to the Recipient.

A13.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A13.1 Events of Default. Each of the following events will constitute an Event of Default:

- (a) in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
 - (i) carry out the Project;
 - (ii) use or spend Funds; or
 - (iii) provide, in accordance with section A7.1, Reports or such other reports as may have been requested pursuant to section A7.1(b);
- (b) the Recipient's operations, its financial condition, or its organizational structure, changes such that it no longer meets one or more of the eligibility requirements of the program under which the Province provides the Funds;
- (c) the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or a creditor makes an application for an order adjudging the Recipient bankrupt, or applies for the appointment of a receiver; or

- (d) the Recipient ceases to operate.

A13.2 **Consequences of Events of Default and Corrective Action.** If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient; and
- (i) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A13.3 **Opportunity to Remedy.** If, in accordance with section A13.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and
- (b) the Notice Period.

A13.4 **Recipient not Remediating.** If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A13.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or

- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A13.2(a), (c), (d), (e), (f), (g), (h), and (i).

A13.5 When Termination Effective. Termination under Article will take effect as provided for in the Notice.

A14.0 FUNDS AT THE END OF A FUNDING YEAR

A14.1 Funds at the End of a Funding Year. Without limiting any rights of the Province under Article A13.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A15.0 FUNDS UPON EXPIRY

A15.1 Funds Upon Expiry. The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession or under its control.

A16.0 DEBT DUE AND PAYMENT

A16.1 Payment of Overpayment. If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay an amount equal to the excess Funds to the Province.

A16.2 Debt Due. If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such Funds or other amount will be deemed to be a debt due and owing to the Province by the Recipient, and the Recipient will pay the amount to the Province immediately, unless the Province directs otherwise.

- A16.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing by the Recipient at the then current interest rate charged by the Province of Ontario on accounts receivable.
- A16.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".
- A16.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A17.0 NOTICE

- A17.1 **Notice in Writing and Addressed.** Notice will be in writing and will be delivered by email, postage-prepaid mail, personal delivery, or fax, and will be addressed to the Province and the Recipient respectively as provided for Schedule "B", or as either Party later designates to the other by Notice.
- A17.2 **Notice Given.** Notice will be deemed to have been given:
- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
 - (b) in the case of email, personal delivery, or fax, one Business Day after the Notice is delivered.
- A17.3 **Postal Disruption.** Despite section A17.2(a), in the event of a postal disruption:
- (a) Notice by postage-prepaid mail will not be deemed to be given; and
 - (b) the Party giving Notice will give Notice by email, personal delivery, or fax.

A18.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

- A18.1 **Consent.** When the Province provides its consent pursuant to the Agreement, it may impose any terms and conditions on such consent and the Recipient will comply with such terms and conditions.

A19.0 SEVERABILITY OF PROVISIONS

- A19.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision will be deemed to be severed.

A20.0 WAIVER

A20.1 **Waiver Request.** Either Party may, in accordance with the Notice provision set out in Article A17.0, ask the other Party to waive an obligation under the Agreement.

A20.2 **Waiver Applies.** Any waiver a Party grants in response to a request made pursuant to section A20.1 will:

- (a) be valid only if the Party granting the waiver provides it in writing; and
- (b) apply only to the specific obligation referred to in the waiver.

A21.0 INDEPENDENT PARTIES

A21.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

A22.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A22.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A22.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on the Parties' respective heirs, executors, administrators, successors, and permitted assigns.

A23.0 GOVERNING LAW

A23.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A24.0 FURTHER ASSURANCES

A24.1 **Agreement into Effect.** The Recipient will provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains, and will otherwise do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A25.0 JOINT AND SEVERAL LIABILITY

A25.1 **Joint and Several Liability.** Where the Recipient is comprised of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A26.0 RIGHTS AND REMEDIES CUMULATIVE

A26.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A27.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A27.1 **Other Agreements.** If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a "**Failure**");
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A28.0 SURVIVAL

A28.1 **Survival.** The following Articles and sections, and all applicable cross-referenced sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 3.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.2(e), A4.5, section A5.2, section A7.1 (to the extent that the Recipient has not provided the Reports or other reports as may have been requested to the satisfaction of the Province), sections A7.2, A7.3, A7.4, A7.5, A7.6, Article A8.0, Article A9.0, section A11.2, sections A12.2, A12.3, sections A13.1, A13.2(d), (e), (f), (g) and (h), Article A15.0, Article A16.0, Article A17.0, Article A19.0, section A22.2, Article A23.0, Article A25.0, Article A26.0, Article A27.0 and Article A28.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE "B"
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	\$250,000.00
Expiry Date	January 31, 2020
Amount for the purposes of section A5.2 (Disposal) of Schedule "A"	\$5,000.00
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Name: Helen Collins</p> <p>Position: Manager, Municipal Programs and Outreach Unit</p> <p>Address: 777 Bay Street, Toronto, Ontario M5G 2E5, 16th Floor</p> <p>Fax: 416-585-7292</p> <p>Email: helen.collins@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Name:</p> <p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Name:</p> <p>Position:</p> <p>Address:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

B1 Section 4.3 of Schedule "A" is amended by adding the following sections:

- (e) use the Funds only for the purpose of reimbursement for the actual

amount paid to the independent third-party reviewer in accordance with the Project; and,

- (f) Not use the Funds for the purpose of paying the salaries of the Recipient's employees.

**SCHEDULE "C"
PROJECT**

Objectives
The objective of the Project is to evaluate the Recipient's reliance on external consultants and contractors, assess knowledge transfer to Recipient staff, and identify service delivery alternatives and efficiency opportunities.
Description
<p>The Recipient will retain an independent third-party reviewer to analyze financial and performance related data on the Recipient's use of external consultants and contractors. The review will examine feasible and innovative service delivery options where external consultants and contractors are utilized extensively. The review will focus on the overall service performance in relation to approved service standards.</p> <p>Areas identified for specific review include:</p> <ul style="list-style-type: none">• Development Charge Process• Growth Management• Hamilton Water <p><u>Independent Third-Party Reviewer's Report</u></p> <p>The Recipient will retain the independent third-party reviewer to compile the findings and recommendations in the Independent Third-Party Reviewer's Report. The Recipient will submit the report to the Province and publish the report on the Recipient's publicly accessible website by November 30, 2019.</p> <p>The report will summarize the reviewer's findings and identify specific, actionable recommendations based on the analysis and findings that aim to identify cost savings and improved efficiencies.</p>

SCHEDULE "D"
BUDGET

Item	Amount
Reimbursement for payments to independent third-party reviewer	Up to \$250,000

SCHEDULE "E"
PAYMENT PLAN

Milestone	Scheduled Payment
<ul style="list-style-type: none">• Submission of Independent Third-Party Reviewer's Report to the Province• Publishing of Independent Third-Party Reviewer's Report• Submission of Final Report to the Province	Up to \$250,000 no more than thirty (30) days after the Province's approval of the Final Report

**SCHEDULE "F"
REPORTS**

Name of Report	Reporting Due Date
1. Final Report	December 13, 2019

Report Details

1. Final Report

The Recipient will submit a Final Report to the Province by December 13, 2019.

The Final Report will set out the Recipient's actual expenditures for the independent third-party reviewer for the project. Supporting documentation, such as invoices or receipts, showing actual costs incurred will be included as part of the Final Report.

The Final Report will include a statement indicating the percentage of the service delivery expenditures reviewed under the project which were identified as potential cost savings in the Independent Third-Party Reviewer's Report, which will be the performance measure for the Project.

The Recipient will use the reporting template provided by the Province prior to the reporting deadline in order to submit the Final Report to the Province.



056 Governor's Road, Dundas, Ontario Canada, L9H 5G7
Visit our Web Site at www.sjv.on.ca

Telephone (905) 627-3541 Fax (905) 628-0825
A MEMBER OF ST. JOSEPH'S HEALTH SYSTEM

Janet Pilon
Acting City Clerk
Hamilton City Hall
71 Main Street West, 1st Floor
Hamilton, ON L8P 4Y5

July 24, 2019

RE: Request for 50% Exemption of the Development Charges for St. Joseph's Villa (170 Ogilvie St. , Dundas) Hospice Project -- SPA-17-205; Building Permit Application # 18-137811-00R3

Dear Ms. Pilon,

St. Joseph's Villa, in planning for the upcoming 10-bed hospice, ensured that the design and program focused on how to sustain the highest quality of life for our patients, their families and those that support them. The planning process cleared every level of review from the City and all conditions have been satisfied and approved. All that remains outstanding, prior to issuing a building permit, is payment of the Development Charges in the amount per below:

City Development Charges	\$237,350.20	
Go Transit	\$820.00	
Public School	\$13,901.27	
Separate School	\$11,911.11	
Total	\$263,982.58	50% = \$131,991.29

Our application for building permit for this project was submitted on September 28, 2018 which included payment of the \$67,642 application fee. All correspondence regarding the Development Charges for the Hospice occurred with City staff well before the new By-laws 19 -142 and 11-174 came into effect on June 13, 2019. In addition, conversations with the Mayor and our Councillor on this matter began almost 18 months ago.

We were fully expecting to receive a 50% exemption, per By-law 14-153 in effect at the time and this was worked into the costing for this project. Given the date that the application was filed, the Development charges at the 50% exemption rate should be applied to this project per the previous By-law.

Over 90% of the funding for this project is coming from the donations of generous Hamiltonians and the need for the exemption by the City for this very important and special project for the citizens of Hamilton is very much needed.

St. Joseph's Villa is responding to a shortage of hospice and palliative respite beds within the region and we are asking for your help in making this a success. Please let us know if you require any additional information.

Respectfully,

Melissa Farrell
President, St. Joseph's Healthcare Hamilton

Carolyn Gosse
President, St. Joseph's Villa

Copy: Fred Eisenberger, Mayor
Arlene VanderBeek, Councillor Ward 13
Mike Zegarac, General Manager Finance
Don Davidson, CEO and President St. Joseph's Villa Foundation



56 Governor's Road, Dundas, Ontario L9H 5G7
905-627-9011

July 26, 2019

Arlene VanderBeek
Councillor
Ward 13 – Communities of Dundas and Flamborough

Sent via email: arlene.vanderbeek@hamilton.ca

Dear Ms. VanderBeek,

This is to confirm that Margaret's Place (the Hospice) will be located on St. Joseph's Villa land and St. Joseph's Villa will be the sole owner and operator of the Hospice. The Hospice will operate as a registered charity and a not-for-profit organization. For greater clarity, I wish to confirm that there will be no commercial enterprise involved in the operation of the Hospice.

If you have any questions or require any additional information, please don't hesitate to contact our office at 905-522-1155, ext. 33884.

Thank you,

A handwritten signature in black ink, which appears to read "Susan C. Hollis".

Susan Hollis
VP & CFO
St. Joseph's Health System