

## LOAN AGREEMENT TERM SHEET

8 Roxanne Drive, Hamilton (Redevelopment of 103 units)

Borrower: CityHousing Hamilton (CHH)

Lender: City of Hamilton ("City")

Type of Loan: \$19,396,979 Interest bearing Loan with a 20-year Amortization as set out in this Term Sheet, Appendix "A" to Report HSC19034(a) / FCS23037

### Loan Conditions

1. The Loan will be subject to the recipient entering into a loan agreement with the City containing such terms and conditions as set out in this term sheet, Appendix "A" to Report HSC19034(a) / FCS23037.
2. The amount of the Loan shall be up to a maximum principal amount of \$19,396,979. The Loan shall only be used for the payment of the financing costs of \$19,396,979 relating to the development of a multi-residential building containing approximately 101 affordable seniors' unit located at 8 Roxanne Drive, Hamilton (the "Project").
3. The Loan will be interest-bearing at a rate of 2.14% compounded semi-annually on the total Loan amount and paid annually commencing on the Effective Date. A greater interest rate will be imposed on default.
4. The "Effective Date" shall be the date of the execution of the Loan Agreement.
5. The Loan will have a term of 20 years commencing on the Effective Date.
6. No assignment of the Loan, other than to the City will be permitted unless consented to by the General Manager of the Healthy and Safe Communities Department (GM) in their sole discretion and only in the following circumstance:
  - (a) the property is sold to another provider of "non-profit housing" as agreed to by the GM;
  - (b) any other circumstance as agreed upon by the GM in their sole unfettered discretion.
7. Requirement to provide the City with insurance certificates for "Property All Risks" insurance and other insurance as requested by the GM, to the satisfaction of the GM in consultation with Risk Management.
8. As continuing collateral security for the principal amount of the Loan and any amount that may become payable pursuant to the Loan agreement for any reason whatsoever hereunder, CHH shall execute and / or deliver to the City in a form and content satisfactory to the City, the following (collectively referred to as the "Security"):

- (a) A collateral charge / mortgage of land which can be lesser in priority only to a FCM registered mortgage or at the sole, absolute and unfettered discretion of the GM a long-term (greater than 20 years) third party financing with terms no more prejudicial than the FCM mortgage, payable on demand, with a Principal Amount of nineteen million, three hundred ninety-six thousand, nine hundred seventy-nine dollars (\$19,396,979 ) CHH which shall be registered against title to 8 Roxanne Drive, Hamilton ("Secured Property");
- (b) An assignment of rents registered against title to the Secured Property and registered pursuant to the PPSA and in priority to any other assignment of rents provided by the CHH;
- (c) Assignment of any proceeds of insurance required pursuant to Article 7 and in priority to any other assignment of insurance provided by the CHH that relates to the Secured Property;
- (d) A general security agreement registered pursuant to the PPSA in priority any other general security agreement entered into by the CHH and registered pursuant to the PPSA which may be site specific to the Property at the sole discretion of the GM; and,
- (e) Any and all such other and further documents, agreements and other instruments, and do such other and further things as the City may require to give effect to the Loan Agreement and cause the City to hold valid and enforceable security for the Principal Amount together with any amount that may become payable for any reason thereunder.

No additional financing will be permitted to be secured on the Secured Property that would cause the aggregate value of mortgages registered against the Secured Property to exceed 100% of the value of the Security Property.

### **Rental Requirements and Maximum Allowable Rent**

9. At all times during the term of the loan, the rents of all units within the Project will at no time be above 80% Average Market Rent (AMR) for the City of Hamilton.
10. Rents for the affordable units may only be increased annually by the Provincial Rent Increase Guideline during a tenancy. Rents may be increased to the maximum allowable percentage of 80% AMR at turnover. Service Manager shall be notified 90 days prior to the effective date of a rent increase of more than the current Provincial Rent Increase Guideline.

### **Events of Default**

11. Events of default shall include but not be limited to:
  - (a) Within the term of the Agreement, the housing is no longer "non-profit housing" as determined by the GM's sole discretion;

- (b) Failure to observe any of the conditions for advance of the Loan;
  - (c) Breach of any provisions of the Loan Agreement;
  - (d) Any disposition of the property not consented to by the GM in their sole discretion which consent may include such conditions as the GM determines in their sole discretion;
  - (e) Failure to acquire Service Manager Consent as it relates to encumbrances to 8 Roxanne Drive, Hamilton;
  - (f) Failure to notify the City about any default of the agreement within 30 days;
  - (g) Where a mortgage, charge, lien, execution or other Encumbrance affecting the Property becomes enforceable against the Property; or
  - (h) Where CHH becomes bankrupt, whether voluntary or involuntary, or becomes insolvent or a receiver / manager is appointed with respect to the Property; or
  - (i) Where CHH certificate of incorporation is cancelled, or CHH is otherwise wound up or dissolved as a corporation or there is any other change in the ownership or corporate status of CHH not approved by the City in advance;
  - (j) Where CHH ceases to be a Non-profit housing provider;
  - (k) Such further events as the City Solicitor deems appropriate in their sole discretion.
12. Consequences of an event of default, unless permitted to be remedied in such time and manner as the GM determines in their sole discretion, will include, but not limited to immediate repayment of all amounts advanced pursuant to the Loan and no further Loan payments.

### **Advance Provisions**

13. The Loan shall be advanced, with any holdbacks as determined necessary by the City solicitor, in one lump sum.
14. Prior to the issuance of any advance of the Loan CHH must;
- (a) Execute the Loan Agreement;
  - (b) Secure the loan with a Collateral mortgage registered on Title of the Property (8 Roxanne Drive, Hamilton, ON) in favour of the City;
  - (c) Ensure the Property is clear of unpermitted encumbrances;
  - (d) Submit an invoice equivalent to the advance request;
  - (e) Provide certificate of insurance to the satisfactory of the City's Risk Management Department; and
  - (f) Such other conditions as the GM determines appropriate.

## 15. Loan Repayment

- (a) The Loan shall be repaid to the City within 20-years from the Effective Date;
- (b) CHH shall repay the principal amount advanced together with interest as provided for in this term sheet in twenty (20) consecutive yearly payments commencing on the annual anniversary date of the Effective Date and continuing on each subsequent annual anniversary date thereof;
- (c) CHH may prepay the outstanding principal of the loan in whole or in part at any time or times without penalty.

**Accountability Provisions**

16. The Loan Agreement shall remain in force and in effect until the Loan has been paid in full and CHH has performed all of its obligations under the Loan Agreement and no Security shall be discharged until the Loan is repaid in full and CHH has performed all of its obligations under the Loan Agreement.
17. During the term of the Loan Agreement and the loan period, CHH will monitor the respective Project annually to ensure the obligations under the Loan Agreement have been met for the previous year. During the term of the payment period, CHH will submit the following documents for the previous year to the Housing Services Division annually on or before June 1:
  - with the annual audited financial statements of the Borrower including the statement of profit and loss of the Borrower for that year, and a balance sheet of the Borrower as of the end of that year, setting forth in each case in comparative form, corresponding figures from the preceding annual audit;
  - with copies of any formal detailed reports submitted to the Borrower by independent accountants in connection with each annual or interim audit of the books of the Borrower;
  - provide the City with other financial data as the City may reasonably request.
18. The loan recipient must, without any prejudice to any rights of inspection the City has pursuant to any Applicable Law, CHH shall, during normal business hours and from time to time upon 24 hours' notice to permit representatives of the City to inspect any real property owned or occupied by CHH including the Property and the Project and to examine and take extracts from CHH's financial books, accounts and records including but not limited to accounts and records stored electronically for the purpose of verifying compliance with this Loan Agreement and use of the Funds.
19. At any time during the term of the Loan, the City may conduct an operational review of the Project on terms and conditions set by the GM in their sole, absolute and unfettered discretion. CHH shall at all times cooperate with the operational review and provide documentation, access to staff and such other information as may be requested by the GM or other City staff.

20. CHH shall ensure that there are adequate financial controls in place to ensure the accuracy, completeness and auditability of CHH's financial reporting.
21. CHH shall, on forty-eight (48) hours prior written notice, give the City free and unrestricted access to the Project and to such staff, documents, books, records and accounts as may be required by the City, for the purpose of verifying compliance with this Agreement and use of the Funds.
22. At any time, the City or any representative of the City may conduct an audit, investigation or inquiry in relation to the Project, the Funds or any larger development or project of which the Project is a part and CHH shall co-operate with the City and provide free and unrestricted access to the Project and to such staff, documents, books, records and accounts as may be requested by the City .
23. Within sixty (60) days of the written request of the City, CHH shall provide an audited financial statement respecting the expenditure of all Funds provided pursuant to this Agreement.
24. The audited financial statements required to be produced by CHH pursuant to Section 27 shall:
  - (a) Be completed in a form and content to the satisfaction of the GM;
  - (b) Be signed by an authorized signing officer of CHH; and;
  - (c) Be submitted to the City at the following address:

71 Main Street, W, Hamilton ON L8P 4Y5  
To the attention of: The General Manager,  
Healthy and Safe Communities Department
25. CHH shall keep and maintain:
  - (a) All financial records (including invoices) relating to the Funds advanced to it in a manner consistent with generally accepted accounting principles; and
  - (b) All non-financial documents and records relating to the Funds advanced to it.
26. For the purpose of ensuring compliance with the terms of this Agreement, the City, or their authorized agents or representatives or an independent auditor identified by the City (collectively the "Inspectors") may, at their own expense, upon on 24 hours' notice and during regular business hours, enter upon CHH's premises and/or the Project, and CHH shall provide free and unrestricted access to its premises, the Project and to such staff, documents, books, records and accounts as may be requested by the Inspectors and cooperate fully with the Inspector in order to permit them:

- (a) Inspect and take extracts from the accounts, records including financial records and invoices, and books and data, whether such aforesaid accounts and records are stored in any format whatsoever including but not limited to paper or electronic format; and
  - (b) Conduct and audit, investigation or inquiry of CHH in relation to the Project, the Funds or any larger development or project of which the Project is a part and CHH. The City shall provide the results of their audit to CHH within a reasonable time of its completion. Any audit performed by the City under this Section shall be at the sole expense of the City.
27. To assist in respect of the rights set out in this loan term sheet, CHH shall promptly disclose and provide, without limitation, any information requested by the Inspectors and shall do so in a form requested by the City, its authorized representatives or an independent auditor identified by the City, as the case may be.
28. During the Term of the Loan Agreement, CHH shall:
- (a) Operate and maintain the Project in a good state of repair and fit for occupancy in the same manner as a prudent owner would;
  - (b) Do or cause to be done all acts and things necessary to cause the Project to be properly maintained and to be kept in a good state of repair; and,
  - (c) Manage the Project in a fiscally responsible manner and ensure that a deficit is not incurred in any year without the approval of the City, which shall not be unreasonably withheld, and that no expenditure is made which is of a material and excessive nature having regard to the normal practice for a similar housing project.

### **Other Provisions**

29. The City of Hamilton must be recognized on project marketing and promotional material (i.e. City of Hamilton logo), at CHH's expense.
30. Any out of pocket expenses (i.e. Appraisal costs) incurred in the provision of the Loan, the preparation of the Loan Agreement or in respect of the Security for the Loan, over and above staff costs, are the responsibility of CHH.
31. The Loan recipient must provide full disclosure, at all times, with respect to issues that will or may affect the completion of the project or the organization's ability to repay the Loan.
32. Any other terms deemed appropriate by the City Solicitor and GM, at their sole discretion.