

**Term Sheet for Forgivable Loan from Ontario Priorities Housing Initiative funding,
City of Hamilton's Poverty Reduction Fund and Affordable Housing Property
Reserve**

1540 Upper Wentworth Street, Hamilton (Intensification on existing site with 126-unit purpose-built rental (111 net new units))

Proponent: Hamilton East Kiwanis Non-Profit Corporation

Type of Loan: \$2,559,040 Forgivable Loan resulting from Ontario Priorities Housing Initiative funding received from the Province of Ontario, \$631,005 from City of Hamilton's Poverty Reduction Fund and \$309,955 from City of Hamilton's Affordable Housing Property Reserve that will bear interest that can be forgiven after a period of 50 years. The combined forgivable loan amount is \$3,500,000.

Loan Conditions:

1. The recipient enter into a contribution agreement (the "Agreement") with the City containing such terms and conditions as set out in this term sheet.
2. The amount of the Loan shall be up to a maximum of \$3,500,000. The Loan shall be used for capital construction costs as permitted by the Ontario Priorities Housing Initiative Rental Housing Component program guidelines, the City of Hamilton's Poverty Reduction Fund and City of Hamilton's Affordable Housing Property Reserve.
3. The Loan shall only be used to construct a 126-unit purpose-built rental located at 1540 Upper Wentworth Street, Hamilton ("the project").
4. Construction must commence within 120 days of the date of execution of the Agreement.
5. Construction must be complete within 4 years of the date of execution of the Agreement.
6. The "Effective Date" of the Loan shall be the date of execution of the agreement.
7. The term of the Loan shall be 50 years commencing on the Effective Date.
8. 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; and,
 - b. any other circumstance as agreed upon by the GM in their sole unfettered discretion.
9. 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.
10. As continuing collateral security for the principal amount of the Loan and any amount that may become payable pursuant to the Agreement for any reason whatsoever hereunder, the Kiwanis Homes 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 CMHC registered mortgage or at the sole, absolute and unfettered discretion of the GM a long-term (greater than 20 years) third party financing, payable on demand in the Principal Amount of \$3,500,000 which shall be registered against title to 1540 Upper Wentworth Street, Hamilton ("Secured Property") and the mortgage shall state that it is security for the indebtedness of the Kiwanis Homes incurred pursuant to the Agreement;
 - 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 Kiwanis Homes;
 - c. assignment of any proceeds of insurance required pursuant to Article 7 and in priority to any other assignment of insurance provided by the Kiwanis Homes 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 Kiwanis Homes 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 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 hereunder.

No additional financing will be permitted to be secured on the Secured Property that would exceed 100% of the value of the Property. At the sole discretion of the GM the

Security required in subsections (b), (c) and (d) and secured against the Secured Property above can be replaced by the same security secured against the Project once completed if the City's priority is maintained.

Postponements

11. During the Term of the Agreement, postponements of the City's Mortgage will be considered only under the following conditions and at the sole absolute and subjective discretion of the GM:
 - a. mortgage renewal;
 - b. to permit refinancing of a prior mortgage(s) to obtain a more favorable term in respect of interest rate, monthly payments, or other reasons agreed to by the City;
 - c. to finance, at rates of no greater than the current market, cost overrun or the cost of repairs;
 - d. to facilitate the making of such advances on a prior registered mortgage which was not fully advanced at the time of registration of the mortgage provided such mortgage has not been increased; and
 - e. to permit a forgivable loan from the Canada Mortgage and Housing Corporation.
12. Approval will be subject to a review to ensure the continued viability of the Project and to ensure monthly payments after additional financing does not result in rent increases greater than those permitted in the Agreement. Postponements will not be approved where equity is being withdrawn. No postponement of the City's Mortgage will be permitted if the total amount secured by all Encumbrances on the Property exceed 100% of the value of Property on date of the request of the postponement.
13. A request for postponement must be made in compliance with any requirements in the Agreement and at least thirty (30) days prior to the closing date of the financing for which the postponement is being requested. The City makes no representation, warranty or covenant that it will be able to respond to the request prior to the closing date of the financing for which the postponement is being requested. The request for postponement must include all the information identified in the Postponement Checklist attached to the Agreement and the request will not be considered or processed until the information identified therein is provided in a form and content satisfactory to the GM in their sole, absolute and unfettered discretion. The City will only provide a postponement in its form and will not enter into postponements or postponement agreements in a form requested by the financing entity which requires the postponement. The City will not enter into standstill agreements or subordination agreements.

Rental Requirements and Maximum Allowable Rents

14. At all times during the term of the loan, the rents of at least 20 of the units will at no time be above 80% Average Market Rent (AMR) for the City of Hamilton, to be determined by the GM in their sole discretion when the final construction and operating budgets are produced, but prior to signing of the construction contract.
15. 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 AMR (80%) at turnover. Service Manager should be notified 90 (ninety) days prior to the effective date of a rent increase of more than the current Provincial Rent Increase Guideline.

Events of Default

16. 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 a Loan payment;
 - c. Breach of any provisions of the 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 1540 Upper Wentworth Street;
 - f. Failure to successfully obtain a Building Permit and commence construction within 120 days of signing the Agreement, to the GM's sole discretion;
 - g. Failure to obtain occupancy within 4 years of the signing of the Agreement;
 - h. Failure to notify the City about any default of the Agreement within 30 days;
 - i. Where a mortgage, charge, lien, execution or other Encumbrance affecting the Property becomes enforceable against the Property;
 - j. Where Kiwanis Homes becomes bankrupt, whether voluntary or involuntary, or becomes insolvent or a receiver/manager is appointed with respect to the Property;
 - k. Where Kiwanis Homes certificate of incorporation is cancelled, or Kiwanis Homes is otherwise wound up or dissolved as a corporation or there is any other change in the ownership or corporate status of Kiwanis Homes not approved by the City in advance; and,
 - l. Where Kiwanis Homes ceases to be a Non-profit housing provider
 - m. Such further events as the City Solicitor deems appropriate in their sole discretion.
17. 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, together with accrued interest thereon calculated, and no further Loan payments shall be made. Additional consequences and remedies shall be determined by the GM deems appropriate in their sole discretion.

Loan Payment and Interest

18. Repayment of the Loan shall occur on the 50th annual anniversary of the Effective Date term together with accrued interest unless forgiven in accordance with the requirements of paragraph 22. Interest shall accrue from the date of the First Advance on the total of the amounts advanced under the Loan. Advanced amounts outstanding from time to time shall bear interest both before and after default, maturity or judgment at a variable rate per annum of 2% above the prime rate established by the Royal Bank of Canada calculated and payable monthly (the "Interest Rate"). The Interest Rate shall be determined as per the date of the First Advance. The Proponent shall be advised of the Interest Rate by letter from the City. Interest as aforesaid shall be accrued from day to day and shall be calculated and payable on the 50th annual anniversary of the Effective Date term unless forgiven in accordance with the requirements of paragraph 22. Interest at the Interest Rate shall accrue on overdue interest and shall be payable on demand.

Advance Provisions

19. The Loan shall be advanced, with such holdbacks as determined necessary by the City Solicitor, in 3 installments being:

Advance	Milestone	Percentage of Loan
1 st	Execution of the Agreement	50%
2 nd	Completion of structural framing of the project.	40%
Final	Occupancy and 60 day construction lien period has passed	10%

20. Prior to the issuance of any advance of the Loan to Kiwanis Homes, the following must be confirmed:
- a. There are no actions, suits, executions, liens or proceedings pending or threatened against or affecting the Property or Project, that if successful, would adversely affect the Property or the financial condition of the Proponent or the priority of the Security, as determined by the City in its sole absolute and unfettered discretion;
 - b. There are no liens, executions, or other instruments registered on title to the Property that would adversely affect the Property, the financial condition of the Proponent or the Security, as determined by the City in its sole, absolute and unfettered discretion;

- c. The Proponent has applied for and received all required regulatory and building approvals;
 - d. The Proponent has ensured that all municipal real property taxes, applicable development charges and any other applicable municipal charges, if any, have been paid and are in good standing;
 - e. The Proponent has made a written request for an Advance and has complied with the requirements for an Advance as set out in the Agreement;
 - f. The City is satisfied, in its sole, absolute and unfettered discretion that there are no Violations of Applicable Law including but not limited to the Building Code, Canadian Environment Assessment Act, 2012, S.C. 2012 c. 19, s. 52, the Ontario Fire Code, any City zoning by-law or any City property standards by-law in respect of the Property or Project whether or not the Violation results in or could result in a Material Adverse Effect;
 - g. The Proponent has discharged any Encumbrance, other than Permitted Encumbrances, against the title of the Property and Project;
 - h. The Proponent is in good standing under all Permitted Encumbrances;
 - i. Third Party Project Monitor Report submitted demonstrating at a minimum that the Project budget is sufficient to complete the project in accordance with the Project's development schedule; and,
 - j. Such other conditions as the GM determines appropriate.
21. Prior to issuance of the Final Advance, the following must be confirmed:
- a. That all the Units in the Project can be occupied to the satisfaction of the GM in their sole discretion;
 - b. That the Program Units in the Project meet the Rental Requirements and Maximum Allowable Rents;
 - c. Sixty (60) days have passed since the publication of the Certificate of Substantial Performance; and
 - d. An updated capital cost statement in a form acceptable to the GM in their sole, absolute and unfettered discretion.

22. Loan Forgiveness

- a. The Loan and interest accrued shall be forgiven at the end of the affordability period when the Proponent has demonstrated that they have fulfilled all the obligations of the Agreement.

Accountability Provisions

23. The Agreement shall remain in force and in effect until the affordability period has ended and Kiwanis Homes has performed all of its obligations under the Agreement and no Security shall be discharged until the affordability period has ended and Kiwanis Homes has performed all of its obligations under the Agreement.

24. During the term of the Agreement and the loan period, Kiwanis Homes will monitor the respective Project annually to ensure the obligations under the Agreement have been met for the previous year. During the term of the payment period, Kiwanis Homes will submit required documentation to the Housing Services Division annually to confirm the affordability requirements are being met;
25. The loan recipient must without any prejudice to any rights of inspection the City has pursuant to any Applicable Law, Kiwanis Homes 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 Kiwanis Homes including the Property and the Project and to examine and take extracts from Kiwanis Home's financial books, accounts and records including but not limited to accounts and records stored electronically for the purpose of verifying compliance with the Agreement, and use of the Funds;
26. 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. Kiwanis Homes 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.
27. Kiwanis Homes shall ensure that there are adequate financial controls in place to ensure the accuracy, completeness and auditability of Kiwanis Home's financial reporting;
28. Kiwanis Homes 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 the Agreement, and use of the Funds.
29. At any time, the City, the Minister or any representative of the City or the Minister 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 Kiwanis Homes shall co-operate with the City and the Minister 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 or the Minister.
30. Within sixty (60) days of the written request of the City, Kiwanis Homes shall provide an audited financial statement respecting the expenditure of all Funds provided pursuant to the Agreement.
31. The audited financial statements required to be produced by Kiwanis Homes pursuant to Section 24 shall:

- a. be completed in a form and content to the satisfaction of the GM;
- b. be signed by an authorized signing officer of Kiwanis Homes; 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

32. Kiwanis Homes 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.
33. For the purpose of ensuring compliance with the terms of the Agreement, the City, the Minister or their authorized agents or representatives or an independent auditor identified by the City or Province (collectively the "Inspectors") may, at their own expense, upon on 24 hours' notice and during regular business hours, enter upon Kiwanis Homes' premises and/or the Project, and Kiwanis Homes 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 Kiwanis Homes in relation to the Project, the Funds or any larger development or project of which the Project is a part and Kiwanis Homes. The City or the Ministry shall provide the results of their audit to Kiwanis Homes 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. Any audit performed by the Ministry under this Section shall be at the sole expense of the Ministry.
34. To assist in respect of the rights set out in this loan term sheet, Kiwanis Homes 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.
35. During the Term of the Agreement, Kiwanis Homes 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 and in compliance with all applicable law; and,

- b. 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

36. The City of Hamilton and Province of Ontario must be recognized on project marketing and promotional material (ie. City of Hamilton logo), at Kiwanis Homes expense.
37. Any out of pocket expenses (ie. Appraisal costs) incurred in the provision of the Loan, the preparation of the Agreement or in respect of the Security for the Loan, over and above staff costs, are the responsibility of Kiwanis Homes.
38. The Loan recipient must provide full disclosure, at all times, with respect to issues repay the Loan.
39. Any other terms and conditions deemed appropriate by the City Solicitor and GM, at their sole discretion.
40. Any other terms and condition as required by the Ministry of Municipal Affairs and Housing to utilize the Ontario Housing Priorities Initiative Rental Housing Component Year 5 funding.