

Bill No. 46
2025

By-law No.

A by-law to approve a Contribution Agreement between Wastell Developments Inc. and The Corporation of the City of London and to authorize the Deputy City Manager, Planning and Economic Development to approve amending agreements to the Contribution Agreement.

WHEREAS section 5(3) of the *Municipal Act, 2001*, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 107(1) of the *Municipal Act, 2001* authorizes the municipality to make a grant on such terms as to security and otherwise as the council considers appropriate to any person, group, or body for any purpose that the council considers to be in the interests of the municipality;

AND WHEREAS the municipality has determined it's in the interests of the municipality to divest municipal lands to Wastell Developments Inc. for the development and operation of affordable housing;

NOW THEREFORE The Municipal Council of The Corporation of the City of London enacts as follows:

1. The Contribution Agreement between The Corporation of the City of London and Wastell Developments Inc. (the "Agreement") attached as Schedule 1 to this bylaw is hereby authorized and approved.
2. The Mayor and City Clerk are hereby authorized to execute the Agreement authorized and approved in Section 1, above.
3. The Deputy City Manager, Planning and Economic Development, or their written designate, is authorized to approve and execute amending agreements to the Agreement.
4. This by-law comes into effect on the day it is passed subject to the provisions of PART VI.1 of the *Municipal Act, 2001*.

PASSED in Open Council on January 21, 2025 subject to the provisions of PART VI.1 of the *Municipal Act, 2001*.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – January 21, 2025
Second Reading – January 21, 2025
Third Reading – January 21, 2025

Schedule 1

CONTRIBUTION AGREEMENT

This Agreement made the 25th day of January, 2025

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON
(hereinafter called the "City")

- and -

WASTELL DEVELOPMENTS INC.
(hereinafter called the "Proponent")

WHEREAS:

- A. The Canada Mortgage and Housing Corporation ("CMHC") and His Majesty the King in right of Ontario as represented by the Minister of Housing ("MHO") entered into a bilateral agreement under the 2017 National Housing Strategy made as of April 1, 2018 (the "CMHC-Ontario Bilateral Agreement under the 2017 National Housing Strategy");
- B. The Minister established the Ontario Priorities Initiative funding program pursuant to which the Minister will provide the CMHC funding and Provincial funding as applicable;
- C. The City of London issued RFP 2024-233 for the disposition of Block 5 at 1958 Duluth Crescent for the development of two affordable rental housing buildings;
- D. Wastell Developments Inc. responded to the RFP 2024-233 and Council awarded Wastell Developments Inc. the disposition of Block 5 at 1958 Duluth Crescent in consideration for the development of two affordable rental housing buildings providing one-hundred (100) affordable rental housing units over a twenty-five year term;
- E. The City and Proponent have entered into this Contribution Agreement for the purpose of establishing the Proponent's obligations with respect to the Loan;

NOW THEREFORE, in consideration of the sum of TWO DOLLARS (\$2.00) now paid by the Proponent to the City and for other good and value consideration, the receipt of which is hereby acknowledged, the City and the Proponent agree with each other as follows:

1. INTERPRETATION

1.1 In this Agreement, including its Schedules, unless the context requires otherwise,

- "Affordability Period" means twenty-five years from the Occupancy Date;
- "Affordable Rent" means the rent for an Affordable Rental Housing Unit that does not exceed 80% of the AMR for that Unit.
- "Affordable Rental Housing" means new, purpose-built, rental housing accommodation which is modest in terms of floor area and amenities, based on household needs and community norms, rented in accordance with this Agreement, but does not include

residential premises used as a nursing home, retirement home, shelter, crisis care facility or any other type of similar facility;

- “Affordable Rental Housing Unit” means an Affordable Rental Housing unit in the Project rented and operated in accordance with this Agreement;
- “Agreement” or “Contribution Agreement” means this Contribution Agreement entered into between the City and Wastell Development Inc.;
- “Average Market Rent” or “AMR” means the average monthly market rent for a rental housing unit, by unit type, as published by CMHC for the London CMA (or, should CMHC not publish such information, as determined from time to time by the City, acting reasonably), as adjusted on an annual basis;
- “Building A” means the northerly building on the Subject Lands.
- “Building B” means the southerly building on the Subject Lands.
- “Business Day” means each Monday, Tuesday, Wednesday, Thursday and Friday except when any such day occurs on a statutory holiday observed in Ontario;
- “CMHC” means Canada Mortgage and Housing Corporation;
- “Development Activities” means those activities which have been approved for the Project as set out in the approved Plans and Specifications and, generally, activities that are normally undertaken for the development, construction, repair, renovation, rehabilitation or conversion of buildings for residential purposes and include the acquisition of property;
- “Force Majeure” means a delay arising from strike, lockout, lockdown, riot, insurrection, terrorism, war, fire, tempest, act of God, pandemic, lack of material or supply of service at a reasonable cost, inclement weather, binding orders, directives or regulations of governmental bodies, courts or arbitrators or any other event beyond the control of the Parties which causes a delay in the fulfillment of a Party’s obligations under this Agreement notwithstanding the reasonable efforts of such Party and provided that any such non-availability or delay does not relate to any extent to any act or omission by such Party or any of its authorized agents or employees;
- “Housing” means residential accommodation and facilities, common areas and services used directly with the residential accommodation. Housing does not include commercial or institutional premises, social or recreational services, or services and facilities related to mental or physical health care, education, corrections, food services, social support or public recreation;
- “Interest Adjustment Date (or “IAD”) means the date on which the Proponent makes the first payment of principal and interest in respect of the Proponent’s permanent financing obligations for the Project, following the completion of construction;
- “Improvements” means the improvements to be made on the Property, consisting of a building and other improvements to be constructed by the Proponent on the Subject Lands in accordance with the Plans and Specifications;
- “Minister” shall mean the Minister of Municipal Affairs and Housing
- “Occupancy Date” means the first day of the month immediately following the month in which

a Unit was rented for the first rental period following Substantial Completion;

- “Parties” means the Proponent and the City and "Party" means either of them, as the context may require;
- “Permitted Encumbrances” means the encumbrances encumbering the Affordable Housing Units listed in Schedule "D", together with such renewals or replacement financing that may be approved by the City, acting reasonably, during the term of this Agreement;
- “PIPEDA” means the Personal Information Protection and Electronic Documents Act, S.C. 2000, c. 5, including any amendments thereto;
- “PIPEDA Protected Information” means any "Personal Information" or "Personal Health Information", as defined under PIPEDA;
- “Plans and Specifications” means the plans and specifications for the development of the Project that have been approved and reviewed by all appropriate governmental authorities for the issuance of all permits necessary to construct and occupy the buildings and as certified by a Quantity Surveyor;

“Project” means the development and construction of Buildings A and B on the Subject Lands, which shall have 100 Affordable Rental Housing Units and facilities ancillary thereto provided and operated in accordance with the terms of this Contribution Agreement;

- “Property” means the property and the buildings as the context may require on lands described in Schedule “E”;
- “Quantity Surveyor” means such architect, engineer or other professional duly licensed to practice in the Province of Ontario as the Proponent may from time to time appoint to supervise, direct, monitor, inspect or assess the Project or a specific aspect of the Development Activities;
- “Security Documents” means the security documents attached to and forming part of the Contribution Agreement under Schedules C-1, C-2 and C-3.
- “Service Manager” means The Corporation of the City of London;
- “Substantial Completion” means the substantial performance, within the meaning of the Construction Act, of all contracts which the Proponent has entered into for Development Activities in connection with the Project under this Agreement;
- “Subject Lands” means the property and the buildings as the context may require on lands described in Schedule “E”;

and

- “Unit” means a self-contained residential dwelling.

1.2 The following Schedules are attached to and form part of this Agreement:

Schedule “A”	Option Agreement
Schedule “B”	Rental Protocol
Schedule “C-1”	City Charge/Mortgage of Land
Schedule “C-2”	Assignment of Rents

Schedule "C-3"	Security Agreement
Schedule "D"	Permitted Encumbrances
Schedule "E"	Legal Description of Property and The Project
Schedule "F"	Project Information Form
Schedule "G"	OPHI Program Guidelines
Schedule "H"	Funding Schedule
Schedule "I"	Initial Occupancy Report
Schedule "J"	Annual Occupancy Report
Schedule "K"	Canadian Environmental Assessment Act Considerations
Schedule "L"	Development Schedule
Schedule "M"	Conditional Letter of Commitment – Province
Schedule "N"	Confirmation of Employment of Apprentices
Schedule "O"	Energy Efficiency and Building Design Details
Schedule "P"	Protocol for Non-Compliance
Schedule "Q"	Confirmation of Construction Start

- 1.3 In the event of a conflict or inconsistency between the provisions of this Agreement and the provisions of a Schedule, the provisions of this Agreement shall prevail.
- 1.4 All references in this Agreement to section numbers are references to sections of this Agreement unless otherwise stated.

2. MUNICIPAL CONTRIBUTION TO PROJECT

- 2.1 The Proponent agrees to advance as its equity contribution to the Project, the amount of **[NTD: City to insert number following receipt of capital budget, equity contribution must be 10% of capital budget]** on or before the commencement of Development Activities and provide written confirmation to the City that the equity contribution has been advanced.
- 2.2 The Proponent acknowledges that the municipal contribution to the Project, consisting of the market value of the Subject Lands, the value of the pre-development costs incurred by the City to prepare the land to support the Project and the cost for part of the prime consultant services for Buildings A and B, being the amount of **[City to insert number]** shall constitute a debt owed to the City by the Proponent (the "Municipal Loan").
- 2.3 If the Minister approves funding for the development of Building A of this Project, the City will provide Ontario Priorities Housing Initiative program funding, being the amount of two million, three hundred forty-three thousand, four hundred five Canadian dollars (\$2,343,405.00) which shall constitute a debt owed to the City by the Proponent (the "OPHI Loan"). Should the Minister not allocate funding for this Project, refuse to provide any funds under the Ontario Priorities Housing Initiative Program for this Project, fail to provide installments of said funds or adjust the amount of said funds, the City shall have no liability to the Proponent for said funding and it shall not be obligated to advance the OPHI Loan. The OPHI Loan shall be used for the Development Activities of Building A.
- 2.4 The Loan for the purposes of this Agreement shall be the total of the Municipal Loan and the OPHI Loan (the "Loan").
- 2.5 The City and Proponent shall jointly review and approve a construction schedule, which shall include a Project Completion Date, and construction budget no later than four (4) weeks prior to the start of construction. The construction budget shall include soft costs, and the cost of each item of the Project.

- 2.6 The City and Proponent will jointly review and approve any material amendment to the construction schedule and construction budget. A material amendment shall mean any single amendment that increases the cost of the fixed price construction contract by an amount exceeding \$50,000 or any series of amendments that, in the aggregate, increase the cost of constructing the Project by an amount exceeding \$100,000.
- 2.7 The Proponent is solely responsible for any cost overruns; the City will not increase the Loan.

3. SPECIAL CONDITIONS

- 3.1 The Proponent agrees to undertake its Development Activities in connection with the Project in accordance with this Agreement and in conformity with the Plans and Specifications.
- 3.2 The Proponent shall commence construction on Building A within one hundred and twenty (120) days of the effective date of the Contribution Agreement. The Proponent shall provide the City with a completed Confirmation of Construction Start, using the form attached as Schedule "Q" within five days of the start of construction of the Project. Should construction not commence within one hundred and twenty (120) days of the date of the Contribution Agreement, the Minister may cancel the funding for the Project and the Loan shall be reduced by the amount of the OPHI funding being [City to insert amount] and the City shall have no liability for the reduction in the Loan.
- 3.3 The Proponent shall, subject to Force Majeure, achieve substantial completion of Building A of the Project by no later than [CITY TO INSERT DATE – OPHI funding requires it be no later than 4 years after the effective date of the Contribution Agreement].
- 3.4 The Proponent shall commence construction on Building B within [City to insert time frame] days of the date of the Contribution Agreement and achieve, subject to Force Majeure, achieve substantial completion of Building B of the Project by no later than [City to insert date].
- 3.5 The Proponent shall discharge or cause the discharge of any registered construction liens so as to ensure that there are no construction liens registered against the Project.
- 3.6 The Proponent shall not at any time during the term of this Agreement breach any Contribution Agreement respecting the Project, including any municipal capital facility agreement made pursuant to section 110 of the *Municipal Act, 2001* and shall not, through any breach on its part, cause such other entity to terminate a Contribution Agreement for cause. The Proponent agrees that a breach by it of any such Contribution Agreement, that has not been corrected, shall constitute a breach of this Agreement. The Proponent shall provide the City with evidence of its good standing under any such Contribution Agreement within thirty (30) days following its receipt of a written request from the City.
- 3.7 The Proponent shall enter into an agreement with architects Tillman Ruth Robinson Inc. to complete the design, project management, and construction administrative services associated with the development of Block 5, Building A and Building B. The Proponent acknowledges that the City will pay the amount of \$651,572.00, excluding HST, to Tillman Ruth Robinson Inc. to offset a portion of these fees and related services and that such amount is included in the Municipal Loan.

4. OPERATION OF AFFORDABLE HOUSING

- 4.1 The Proponent shall develop and operate one-hundred (100) Affordable Rental Housing Units within the Project, for a period of twenty-five (25) years commencing upon the Occupancy Date.
- 4.2 The Proponent shall manage the Project so that the rent for the (100) Affordable Rental Housing Units will not exceed 80% of Average Market Rent during the Affordability Period. The initial rents shall be:
- [City to insert amount] for a one-bedroom Affordable Rental Housing Unit;
[City to insert amount] for a two-bedroom Affordable Rental Housing Unit;
[City to insert amount] for a three-bedroom Affordable Rental Housing Unit.
- 4.3 The Proponent acknowledges and agrees that the rent for all one-hundred (100) Affordable Rental Housing Units in the Project will not exceed the Affordable Rent of 80% of AMR as outlined in Schedule "B". Affordable Rent increases may follow the *Residential Tenancies Act, 2006* rent increase guidelines but shall not exceed 80% of the AMR for the term of the Agreement.
- 4.4 The Proponent acknowledges and agrees that the Affordable Rent for a Project includes the provision of heating, air conditioning, water, fridge and stove.
- 4.5 The Proponent agrees to operate the Affordable Rental Housing Units in accordance with the requirements of Schedule "B" of this Agreement.
- 4.6 The Proponent acknowledges and agrees that the Rental Protocol in Schedule "B" applies to the Project by virtue of the contractual terms of this Agreement, notwithstanding that the Rental Protocol does not apply to the Project under the *Residential Tenancies Act, 2006*.
- 4.7 The Proponent shall not rent the Affordable Rental Housing Units to themselves, their shareholders, directors, family members or to any other individual that is not at arm's length from the Proponent, their shareholders or directors.
- 4.8 The initial gross tenant household income from all sources for tenants for the Affordable Rental Housing Units shall be no greater than five (5) times the monthly rent for the Affordable Rental Housing Unit.
- 4.9 The Proponent shall select tenants from the City's client list of eligible individuals or households seeking affordable housing. The Proponent shall provide the City with information on the size of the unit. When filling a vacant unit, the Proponent shall use the process approved by the City. The City's current process is:
- i. As soon as the Proponent is aware of a vacancy or a notice to vacate, the Proponent will contact the City employee designated by the City, or if no person has been designated, Deputy City Manager, Social and Health Development or their written designate ("City Contact").
 - ii. The City Contact then notifies the next City Client on the Housing Stability Services waiting list and provides that City Client with a referral letter, with the City Contact's card attached, indicating they are being referred for housing under this agreement.
 - iii. The City Contact asks the City Client on the waiting list to contact the Owner directly, if the City Client is interested in applying.

- iv. The City Client will provide the Owner with the referral letter.
- v. For greater certainty, the Owner makes the final decision with respect to filling a vacancy in a designated unit, and, acting reasonably, the Owner can accept or reject a referral from the City. The Owner shall notify the City if they reject the referral from the City, provide the rationale for the rejection and the City will provide further referrals using the process outlined above until the Owner accepts a referral.
- vi. If a City Client is at risk of eviction, the Owner shall reach out to the City employee designated by the City to work through a variety of prevention measures to try and maintain the housing placement.

4.10 The Proponent shall ensure that the following occupancy standards are observed when entering into a tenancy agreement for an Affordable Rental Housing Unit:

A minimum of one and a maximum of two persons per bedroom for adult household members;

- i. A minimum of one and a maximum of two children per bedroom under the age of 18;
- ii. An additional bedroom may be provided, if requested by the household under the following specific circumstances;
- iii. If a member of the household requires a separate bedroom due to a disability or medical condition (Written verification: a doctor's note describing the nature of the disability or medical condition clearly specifying why an extra room is required);
- iv. Store equipment required by a member of the household due to a disability or medical condition (Written verification: a doctor's note describing the equipment required clearly specifying why an extra room is needed);
- v. Accommodate an individual who is not a member of the household and who provides a member of the household with support services that are required due to the member's disability or medical condition (Written verification: a letter from the support service agency or person providing support services, describing the nature of the service and hours of service);
- vi. If a member of the household is pregnant (Written verification: a doctor's note specifying why an extra room is needed);
- vii. If a member of the household has joint custody over a child who is not a member of the household, however, the member is required to provide accommodation for the child where a bedroom is required (Written verification: court order, custody arrangement, or other applicable documentation); and
- viii. If a member of the household has overnight access to a child who is not a member of the household, the member provide accommodation for the child where a bedroom is required (Written verification: court order, custody arrangement, or other applicable documentation).

4.11 The Proponent shall contribute a minimum of 4% of rental income annually to a designated reserve fund and provide account information to the City within thirty (30) days of a request for same.

5. TERMS OF THE LOAN

- 5.1 The Loan shall have a term of twenty-five (25) years equivalent to the Affordability Period, commencing as of the Occupancy Date of the Project.
- 5.2 The OPHI Loan shall be disbursed in accordance with the funding schedule set out in Schedule "H", subject to the conditions precedent set out in Schedule "H".

- 5.3 Prior to the Interest Adjustment Date, interest shall accrue on the total amount of the Loan at the rate of eight percent (8%) per annum. The interest so calculated shall compound annually, not in advance, until the Interest Adjustment Date.
- 5.4 The amount of interest accrued on the Loan as calculated in section 5.3 shall be forgiven on the Interest Adjustment Date, provided that the Proponent has satisfied the requirements of the Agreement and is in good standing under this Agreement.
- 5.5 Following the Interest Adjustment Date, interest shall accrue on the total amount of the Loan at the rate of eight per cent (8%) per annum. The interest so calculated shall compound annually, not in advance.
- 5.6 Where the Proponent has satisfied the requirements of this Agreement, as of such anniversary date, the amount of the interest so owing shall automatically be forgiven on each anniversary date of the Interest Adjustment Date. The Proponent shall only pay the City the amount of interest, as calculated on the Loan amount according to the interest rate stipulated in section 5.5 if the requirements of this Agreement are not met.
- 5.7 The Loan amount shall be fully forgiven on the last day of the month at the end of the term of the Affordability Period, provided that the Proponent has fulfilled all the requirements of this Agreement.
- 5.8 The Proponent shall provide the City with such information respecting the Proponent's permanent financing obligations for the Project as the City may require from time to time.

6. CONDITIONS PRECEDENT TO THE TRANSFER OF THE LAND

- 6.1 The obligation of the City to transfer the Subject Lands to the Proponent is conditional upon prior compliance with the following conditions precedent:
- a) the Proponent shall have submitted the Project budget (capital budget and operating budget) and Project Construction Schedule to the City in a form and content satisfactory to the City;
 - b) The City shall have received the following documents and materials each of which shall be satisfactory in substance in and in form to the City;
 - i. Certificates of incumbency of the persons signing on behalf of the Proponent;
 - ii. Certified copies of such corporate documents of the Proponent as the City may reasonably require including, without limitation, letters patent, articles of incorporation, certified abstracts from by-laws, and certified copies of relevant directors' resolutions;
 - iii. An opinion of the Proponent's counsel addressed to the City Solicitor's Office that the Proponent :
 - A.
 - i. Is a body corporate, duly incorporated and properly organized and validly existing as a corporation under the laws of the jurisdiction in which it was incorporated;
 - ii. Is qualified to do business in the Province of Ontario;
 - iii. Has all the necessary corporate power and authority to carry on the

business to be conducted by it in respect of the development, operation and management of the Project; and

- iv. Has all the necessary corporate power and authority to enter into and perform its obligations under this Agreement, the Agreement of Purchase and Sale and each of the Security Documents to which it is a party in accordance with their respective terms;

- B. That this Agreement to which the Proponent is a party has been duly and validly authorized, executed and delivered by the Proponent and are valid and binding obligations of the Proponent enforceable in accordance with their respective terms;
- C. That neither the execution and delivery by the Proponent of this Agreement to which it is a party nor compliance by the Proponent with any of their respective terms will contravene the charter documents or bylaws of the Proponent or, to the best of such counsel's knowledge, after having made due enquiry of the Proponent, contravene or result in a default under any other agreement or instrument by which Proponent may be bound or affected;
- D. That, to the best of such counsel's knowledge, without having made independent enquiry, there are no actions or proceedings pending or threatened against the Proponent, before any court or administrative agency;
- E. that no instrument containing a charge on any of the undertakings, property, or assets of the Proponent, or notice thereof, has been registered in the Province of Ontario;
- F. as to such other matters as the City or its counsel may reasonably request.

7. SECURITY

- 7.1 In conjunction with the conveyance of the Property to the Proponent, the Proponent shall provide the City with executed registerable security documents in the form attached hereto as Schedules "C-1", "C-2" and "C-3" (the "Security"), completed in accordance with this Agreement.
- 7.2 The Security shall secure the obligations of the Proponent under this Agreement. The amount of the Loan shall be included in the Security documents.
- 7.3 Without limiting the Proponent's covenants and the remedies of the City under the Contribution Agreement and the Security, the Proponent agrees that a breach of this Agreement shall constitute a breach of the Security and a breach of the Security shall constitute a breach of this Agreement.
- 7.4 The City acknowledges and agrees that notwithstanding that the Security provides that the principal and interest secured thereunder is payable on demand, the City shall have no right to demand payment thereunder except in accordance with the provisions of this Agreement relating to repayment. In the event of a conflict or inconsistency between the provisions of this Agreement and the Security, the provisions of this Agreement shall prevail with respect to the Loan.

8. ACCOUNTABILITY FRAMEWORK

- 8.1 (a) In the event:
 - i. The City is advised by the Proponent that the Project will not proceed; or

- ii. The building permit for the Building A of the Project is not issued on or before **[CITY TO INSERT DATE]**, or such longer period of time as the City may determine;
 - iii. The building permit for Building B of the Project is not issued on or before **[CITY TO INSERT DATE]**, or such longer period of time as the City may determine; or
 - iv. the Proponent has not complied with a term or condition of this Agreement;
- the Proponent will be in default, the Loan shall be payable to the City, forthwith upon demand.

- 8.2 The Proponent shall submit to the City, an audited statement with respect to the expenditure of the Loan provided to it pursuant to this agreement, within one hundred and twenty (120) days following the date on which the City is advised that the Development Activities related to the Project have been fully completed or the Project will not proceed.
- 8.3 Following the full completion of the Development Activities related to the Project, the Proponent shall submit the Initial Occupancy Report attached as Schedule "I" and annually thereafter shall complete the annual occupancy report attached as Schedule "J"
- 8.4 Without limiting the Proponent's obligations under any other section, the Proponent, if requested by the City, shall forthwith submit to the City information similar to an occupancy report, where necessary, in addition to any such material that the Proponent may have previously submitted to the City.
- 8.5 The Proponent represents that it has not provided any false or misleading information in relation to the Project and agrees that it shall not provide any false or misleading information under this Agreement.
- 8.6 The Proponent shall, at a mutually convenient and agreeable time, give the City free access to the Project and to such staff, documents, books, records, and accounts as may be required to conduct an audit, investigation, or inquiry for the purpose of verifying compliance with this Agreement.
- 8.7 The City may conduct an audit, investigation, or inquiry in relation to the Project or any larger development or project of which the Project is a part of, and the Proponent shall provide free access, at a mutually convenient and agreeable time, to the Project and to such staff, documents, book, records and accounts as may be determined by the City.
- 8.8 The provisions of sections 8.2, 8.3, 8.4 and 8.5 shall continue to apply for a period of seven (7) years following the end of the Affordability Period or the date of any early termination of this Agreement.

9. COMMUNICATIONS PROTOCOL

- 9.1 All communications activities must be approved by the City, CMHC and the Minister. Communication activities include, but are not limited to, public or media events or ceremonies including key milestone events, news releases, reports, web and social media products or postings, blogs, news conferences, public notices, physical and digital signs, advertising campaigns, awareness campaigns, editorials, multi-media projects and all related communications materials. The Proponent shall seek permission from the City for any communications activities thirty days in advance of any anticipated communication activities. The City will notify the Minister of any requests for permission submitted by the Proponent for communication activities. The Proponent agrees and acknowledges the communications protocol is a term of the OPHI funding.

- 9.2 Should the Proponent wish to install a sign recognizing their contribution to the Project, the Proponent must produce a sign which recognizes the contributions of the City, the Minister and CMHC. For clarity, notwithstanding these requirements, the Proponent shall seek the consent of the City, CMHC and the Minister for said sign.
- 9.3 The Proponent shall co-operate in organizing press conferences, announcements, and official ceremonies to be held at an appropriate location and time respecting the Project.

10. REMEDIES

- 10.1 Upon the occurrence of any one or more of the following events (each an "Event of Default"):
- (a) the failure of the Proponent to perform, observe or comply with any other term, covenant, condition or provision of this Agreement within thirty (30) days of receipt of written notice of the failure from the City provided the Proponent shall not be deemed to be in default if within the said period of thirty (30) days, the Proponent commences the necessary action to remove the failure and such action is diligently prosecuted;
 - (b) any representation or warranty made by the Proponent in this Agreement proves to have been untrue or misleading in any material respect as of the date on which it was made;
 - (c) the Improvements have not been substantially completed in accordance with the Plans and Specifications and in accordance with the construction schedule approved pursuant to this Agreement, or such substantial completion not certified to the City by the Quantity Surveyor on or before 12 months after the Project Completion Date in the construction schedule approved pursuant to this Agreement;
 - (d) any person commences an action, suit or proceeding materially affecting the Project or file a lien against the Property, or any person shall commence an action, suit or proceeding contesting or questioning the validity or enforceability of this Agreement, unless the Proponent shall diligently contest such action, suit or proceeding and discharge any such lien forthwith without the requirement of notice by the City and post such bonds, cash or letters of credit or give such other security in order to obtain such discharge in amounts and on terms satisfactory to the City, acting reasonably;
 - (e) the Proponent ceases to carry on business;
 - (f) the Proponent:
 - (i) becomes insolvent or unable to pay its debts as they become due; or
 - (ii) files a petition in bankruptcy or voluntary petition seeking reorganization or effect a plan or other arrangement with creditors; or
 - (iii) makes an assignment for the benefit of creditors under the *Bankruptcy Act* (Canada) or any other insolvent debtors' legislation; or
 - (iv) applies for or consents to the appointment of any receiver or trustee for it or of all or any substantial part of its property and assets; or
 - (v) voluntarily liquidates or winds-up or suffers itself to be liquidated or wound-up;

(g) any of:

- (i) an involuntary petition seeking the adjudication of the Proponent as bankrupt or insolvent not removed within 30 days; or
- (ii) an order of any court or other authority appointing any receiver or trustee for the Proponent or for all or any substantial portion of its property and assets; or
- (iii) a writ of execution, judgment or writ of attachment or any similar process which may, in the reasonable opinion of the City, materially impair the ability of the Proponent to perform its obligations under this Agreement or any of the Security Documents shall be made, given or issued against the Proponent or in respect of its property and assets, and such petition, order, writ or judgment is not vacated or stayed within 15 days after its date;

(h) the occurrence of a material adverse change in the financial condition of the Proponent which would, in the reasonable opinion of the City, detrimentally affect the ability of the Proponent to meet its obligations to the City; and

(i) if the Improvements shall be entirely destroyed or damaged to such an extent that, in the opinion of the Quantity Surveyor, acting reasonably, they are no longer fit for the purpose for which they were intended and the insurance proceeds, if any, held by the City, in the opinion of the Quantity Surveyor, acting reasonably, are insufficient to repair such destruction or damage, and the Proponent has not provided evidence satisfactory to the City of the timely availability of such sufficient funds, then, at its option, the City may declare the full principal amount of the Loan then advanced, together with all other monies owing to the City hereunder, due and payable forthwith. In such case, the City may realize upon any and all security pledged to it and may commence such other legal actions or proceedings against the Proponent, the Property or assets of the Proponent as may be permitted hereunder, by any one or more of the Security Documents or at law or in equity, all as it, in its sole discretion, deems expedient. The Proponent hereby acknowledges that the City's remedies are cumulative and not mutually exclusive.

10.2 Complete Construction: If an Event of Default shall occur, then a mutually agreed Committee of Stakeholders including the Proponent and the City shall be formed to establish an appropriate remedy. If the Committee of Stakeholders is not able to reach an agreement on an appropriate remedy, the City may, in addition to any other remedy available to it, enter upon and take charge of the Project and assuming full charge of the Improvements and may complete the Improvements or enter into a contract with another to complete the same, and all amounts advanced for such purpose, including reasonable legal fees incurred by the incident to the enforcement of any provisions hereof, shall be an indebtedness of the Proponent to the City. All such amounts, even though they may, when added to the monies advanced and disbursed under this agreement, exceed the Loan, shall be secured by the Mortgage and other Security Documents.

10.3 During Term of Agreement: Should the Proponent be in default under the terms of the Loan or under the terms of this Agreement or under the terms of any mortgage or other encumbrance registered on title to the Property, the City shall have the right to declare all or part of the unearned portion of the Loan due and payable immediately.

10.4 Assignment of Plans and Specifications: The Proponent hereby assigns to the City and its successors, the right to possess and use the Plans and Specifications and the Proponent's rights under all construction contracts, for the purpose of completing the Improvements if Proponent defaults subject to any prior assignment to the holder of any primary financing

against the Property.

- 10.5 Costs and Expenses of Collection: All reasonable costs and expenses of collection (including legal fees, disbursements, and court costs) of all amounts owing hereunder or of enforcement of any security created in favour of the City pursuant hereto, shall be for the account of the Proponent and shall be repayable within thirty (30) days from the date of request.
- 10.6 In the event the City determines that the Proponent has breached any one (1) or more provisions of the Contribution Agreement, the City shall follow the Protocol for Non-Compliance set out in Schedule "P".
- 10.7 All the remedies in this Agreement, Schedule "P" and the Security are cumulative and are not alternative and the City shall not be precluded from availing itself simultaneously of some or all of the said remedies and any other remedies available in equity or at law.
- 10.8 Notwithstanding any of the terms of this Agreement, Schedule "P" or of the Security, the City shall have the option of waiving any or all of its remedies under this Agreement, Schedule "P" and the Security, but no waiver of a provision shall be deemed to constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise provided.

11. OPTION TO PURCHASE THE PROPERTY

- 11.1 The Proponent shall grant the City an Option to Purchase the Property in accordance with Schedule "A" for a term of twenty-five (25) years, exercisable upon an Event of Default under Section 10.1 of this Agreement or a transfer or assignment of the Proponent's interest in the Property pursuant to Sections 14.2 (b) and 17.12.
- 11.2 The Proponent hereby consents to the City's registration of a Notice of Option to Purchase against title to the Property, in first priority.

12. ENERGY EFFICIENCY AND BUILDING DESIGN

- 12.1 The Proponent agrees that traditional electric heating will not be used for the Project.
- 12.2 Energy efficient details for products and materials included in the Project must be listed in Schedule "O".
- 12.3 The Proponent confirms that the Project does not impose adverse impacts that cannot be mitigated. Funding under the OPHI is subject to the Canadian Environmental Assessment Act (CEAA). CEAA Considerations are outlined in Schedule "K".

13. REPRESENTATION AND WARRANTIES

- 13.1 The Proponent represents and warrants to the City that:
 - a. The Proponent is duly incorporated, organized and validly existing under the laws of the Province of Ontario and has full capacity, power and authority to own all its property and to carry on its business as now conducted and as contemplated under this Agreement and all other agreements contemplated thereunder, and is duly qualified and in good standing in each jurisdiction in which the character of the

property owned or leased or the nature of the business carried on by it makes such qualification necessary or desirable.

- b. The Proponent has full corporate power, legal right and authority to enter into this Agreement and to do all acts and things as are required or contemplated hereunder to be done, observed or performed by it.
- c. Neither the execution and delivery of this Agreement, the consummation of the transactions herein contemplated, nor the compliance with the terms, conditions and provisions hereof and of the mortgage will conflict with, or result in a breach of any of the terms, conditions or provisions of the constating documents of the Proponent or of any agreement or instrument to which it is now a party, or constitute a default thereunder, or (except as contemplated by this Agreement) result in the creation or imposition of any mortgage, lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Proponent (whether such properties or assets are owned legally or beneficially) pursuant to the terms of any agreement or instrument to which it is a party.
- d. There is not now pending against the Proponent any litigation, action, suit or other proceeding of a material nature by or before any court, tribunal or other governmental agency or authority or any other such pending or threatened action, suit or other proceeding against the Proponent or against or affecting any of the properties or assets of the Proponent (whether such property or assets are owned legally or beneficially) such that if the same were adversely determined, it could be reasonably expected to materially and adversely affect the business operations, properties or assets, or the condition, financial or otherwise, of the Proponent.
- e. Except as previously disclosed in writing to the City, the Proponent is not a party to any agreement or instrument or subject to any restriction or any judgment, order, writ, injunction, decree, rule or regulation which materially and adversely affects the business, operations, prospects, properties or assets, or condition, financial or otherwise, of the Proponent.
- f. None of the information, financial or otherwise, provided by the Proponent to the City and to induce the City to convey the Property and to enter into this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make any statement contained therein not misleading in light of the circumstances in which it was made.

14. COVENANTS OF THE PROPONENT

14.1 The Proponent covenants and agrees with the City that, it shall:

- a. take all such actions and do all such things required to develop and continuously carry on the construction of the Improvements in a good and workman-like manner and in accordance with the Plans and Specifications;
- b. do or cause to be done all acts and things necessary to preserve in full force and effect the existence of the Proponent and all licenses and permits required for the carrying on of the operations of the Proponent at and from the Property and to preserve and protect all of the properties, real and personal owned and used by the Proponent in connection with the Project and to cause the same to be properly maintained and to be kept in good state of repair;
- c. pay and discharge or cause to be paid and discharged all taxes and other levies of the Province of Ontario, the City, or of any other entity having jurisdiction to impose

such taxes or levies, when the same become due and payable, except such taxes as are being contested in good faith by appropriate proceedings and provided that, in such case the Proponent shall have provided the City with appropriate security;

- d. deliver to the City the statements and reports as required by the Contribution Agreement.

14.2 The Proponent covenants and agrees with the City that, so long as any obligation is outstanding by the Proponent to the City hereunder the Proponent will not, without the prior written consent of the City:

- a. create by the following encumbrances (collectively, the “Permitted Encumbrances”): create, incur, assume or permit to exist, after knowledge of the existence thereof, any mortgage, pledge, lien, hypothecation, charge (fixed or floating), security interest or other encumbrance whatsoever on the Property or any personal property or fixtures thereon except the following encumbrances:
 - i. encumbrances created in favour of or assigned or pledged to the City;
 - ii. inchoate or statutory liens for taxes which have not been assessed, or if assessed, which are either not delinquent or which are being contested by bona fide proceedings in good faith, and sufficient security for the payment of same has been given to the City, if requested;
 - iii. inchoate or statutory liens of contractors, sub-contractors, mechanics, suppliers, workers and others in respect of the construction, maintenance, repair and operation of the Improvements, provided that the same are not registered encumbrances against title to the Property or any personal property, or, if so registered, have been postponed to all charges in favour of the City contained in the Security Documents or are being contested by bona fide proceedings in good faith with sufficient security for the payment thereof having been given to the City or paid into Court to prevent effectively in the City’s opinion realization by disposal or other alienation from the Proponent of its legal or beneficial title to or interest in any such property; and
 - iv. other Permitted Encumbrances listed in Schedule “D” hereto.
- b. become a party, without the prior written consent of the City, to any transaction whereby the Subject Lands would become the property of any other person, whether by way of reorganization, amalgamation, merger, transfer, sale, lease, sale and leaseback, or otherwise;
- c. permit any change in the beneficial ownership of the Proponent without prior written consent of the City;
- d. make any material change in the Plans and Specifications or the Construction Contract which pertains to the number or type of residential dwelling units of the Project without the prior written approval of the City; or
- e. change its fiscal year end or change the basis upon which the financial records of the Proponent are maintained, without the prior written consent of the City.

15. INDEMNIFICATION

15.1 The Proponent shall indemnify and save harmless the City from all claims, costs, all matter of actions, cause and causes of action, duties, dues, accounts, covenants,

demands or other proceeding of every kind or nature whatsoever at law or in equity arising out of this Agreement and out of the operation of the Affordable Rental Housing Units including claims arising out of negligence of the Proponent and specifically, all claims arising out of the intentional or criminal acts of any officers, directors, employees, agents, volunteers, or independent contractors of the Proponent. Such indemnification shall survive the termination of this Agreement for claims arising from or out of incidents occurring the term of this Agreement.

- 15.2 The Proponent agrees to purchase and maintain, during the term of this Agreement third party liability insurance in a limit of not less than five million dollars (\$5,000,000) covering bodily injury, and loss or property damage resulting from any activity related in any way to this Agreement. This insurance shall include the City as an additional insured, a cross liability clause, severability of interest clause, non-owned automobile insurance and personal injury liability clause.
- 15.3 The Proponent further agrees, upon Substantial Completion, to purchase and maintain insurance policies that a prudent manager of similar premises would maintain and, without limiting those types of policies, at least the following:
- a) Broad form boiler and machinery insurance on a blanket repair and replacement basis with limits for each accident in an amount of at least the replacement cost of the Project and with a deductible of not more than one hundred thousand dollars (\$100,000);
 - b) All risks property insurance (including flood and earthquake) in an amount equal to the full replacement cost of the Project and with a deductible of not more than one hundred thousand dollars (\$100,000).
- 15.4 In addition, during the design and construction period of the contract, the Proponent will obtain and maintain the following policies of insurance:
- a) All risk builder's risk property insurance for the full replacement value of the completed construction project, including boiler and machinery, earthquake and flood based on a stated amount co-insurance and including a waiver of subrogation and loss payable, as their interest may appear, in favour of the City, and with a deductible of not more than one hundred thousand dollars (\$100,000) and remaining in effect until the completion of construction;
 - b) Construction wrap-up liability insurance coverage including owners and contractors protective, broad form products and completed operations, cross liability and severability of interest clauses, blanket contractual, hook liability, employers liability, non-owned automobile liability and shoring, blasting, excavating, under-pinning, demolition, pile driving and caisson work, work below and above ground surface, tunnelling and grading, and similar operations associated with the construction work, as applicable; to an inclusive limit of not less than \$5,000,000 and in the joint names of the Proponent, City, designated consultants, designated contractors, all other contractors, sub- contractors, suppliers and/or tradesmen while working on the site, engineers, architects, consultants and other persons (including, but not limited to directors, officers, employees, shareholders, legislators and officials involved in the Project) which the City reasonably may require to be added as insured parties.
- 15.5 The Proponent shall advise the City of any cancellation, material alteration or lapse of any policies of insurance required to be provided hereunder. If the Proponent fails to effect and keep such insurance in force, or if such insurance is in an amount less than the amount

required under this Agreement, the City shall have the right, upon notice to the Proponent and without assuming any obligation in connection therewith, to effect such insurance at the cost of the Proponent and all outlays by the City shall be payable by the Proponent to the City forthwith upon demand without prejudice to any other rights and recourses of the City hereunder. No such insurance taken out by the City shall relieve the Proponent of its obligations to insure hereunder and the City shall not be liable for any loss or damage suffered by the Proponent.

- 15.6 The Proponent shall duly and punctually pay or cause to be paid all premiums and other sums of money payable for maintaining the insurance to be provided pursuant to this Article. Evidence that the insurance described above is in force shall be provided to the City prior to commencement of the Agreement and thereafter once annually at least ten (10) clear days prior to the renewal date of the policy, and that the insurance will not be cancelled or permitted to expire unless the insurer notifies the City in writing at least thirty (30) days prior to such cancellation.
- 15.7 Further, the Proponent shall require all professionals involved with the Project to carry professional (errors and omissions) liability insurance in an amount not less than two million (\$2,000,000) dollars and make reasonable efforts to verify such insurance is in force throughout the period of the work.
- 15.8 The Proponent agrees to obtain for its employees and to require all designated consultants, designated contractors, all other contractors, sub-contractors, suppliers and/or tradesmen while working on the site, engineers, architects, consultants and other persons Workplace Safety and Insurance Board coverage and to ensure that such coverage continues in effect throughout the period of the work.

16. NOTICE

- 16.1 Any notice or other communication required, desired or permitted to be given by this Agreement shall be in writing and shall be effectively given if:
- (a) delivered personally;
 - (b) sent by prepaid courier service; or
 - (c) sent by e-mail communication, and confirmed by mailing the original documents so sent by prepaid mail on the same or following day, addressed as follows:
 - (i) in the case of notice to the City:

The Corporation of the City of London
Municipal Housing and Industrial Development
P.O. Box 5035 London, ON N6A 4L9
E-mail: housing@london.ca
 - (ii) in the case of notice to the Proponent:

Wastell Builders Inc.
5-1895 Blue Heron Drive
London, Ontario N6H 5L9
Attention:
Email: julian@wastell.ca

or at such other address as the party to whom such notice or other communication is to be given shall have advised the party giving same in the manner provided in this section.

Any notice or other communication delivered personally or by prepaid courier service shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a Business Day such notice or other communication shall be deemed to have been given and received on the next following Business Day. Any notice or other communication transmitted by facsimile communication shall be deemed to have been given and received on the day of its transmission, provided that such day is a Business Day and such transmission is completed before 4:30 p.m. on such day, failing which such notice or other communication shall be deemed to have been given and received on the first (1st) Business Day after its transmission. If there has been a mail stoppage and if a party sends a notice or other communication by facsimile communication, such party shall be relieved from the obligation to mail the original document in accordance with this paragraph.

17. GENERAL

- 17.1 Any power, right or function of the City contemplated by this Agreement, may be exercised by any employee, agent or assign of the City who is hereby specifically authorized in this regard.
- 17.2 It is understood that the *Municipal Freedom of Information and Protection of Privacy Act* shall apply to all records submitted to or created by the City pursuant to this Agreement.
- 17.3 The Proponent represents and warrants that:
- (a) it shall preserve the PIPEDA compliance of all PIPEDA protected Information transferred to it by the City;
 - (b) it shall ensure the PIPEDA compliance of all PIPEDA Protected Information it collects in the course of performing its contractual obligations; and
 - (c) it shall ensure the PIPEDA compliance of all PIPEDA protected information that it transfers to the City.
- 17.4 Nothing in this Agreement is to be construed as authorizing one Party to contract for or incur any obligation on behalf of the other or to act as agent for the other and nothing in this Agreement shall be construed to constitute the City and the Proponent as partners of each other.
- 17.5 No member of:
- (a) the House of Commons or Senate of Canada; or
 - (b) the Legislative Assembly of Ontario; or
 - (c) the Municipal Council constituting the Service Manager or the Municipal Council of any local municipality of the Service Manager or the governing body of any Municipal Agency, Board or Commission, of any such municipalities;
- shall be admitted to any share or part of any contract, agreement or commission made pursuant to this Agreement.
- 17.6 Time shall in all respects be of the essence in this Agreement, provided that the time for doing or completing any matter provided for under this Agreement may be extended or abridged by agreement in writing signed by the City and the Proponent or their respective solicitors on their behalf, who are hereby expressly authorized in this regard.

- 17.7 Any tender of documents or money hereunder may be made by the City or the Proponent or their respective solicitors, and it shall be sufficient that a bank draft or certified cheque may be tendered instead of cash.
- 17.8 This Agreement is made pursuant to and shall be governed by and construed in accordance with the laws of the Province of Ontario. Any reference to a statute in this Agreement includes a reference to all regulations made pursuant to such statute, all amendments made to such statute and regulations in force from time to time and to any statute or regulation which may be passed, and which has the effect of supplementing or superseding such statute or regulations.
- 17.9 The headings and subheadings contained in this Agreement are inserted for convenience and for reference only and in no way define, limit or describe the scope or intent of this Agreement or form part of this Agreement.
- 17.10 The Parties agree that there are no representations, warranties, covenants, agreements, collateral agreements or conditions affecting the Property or this Agreement other than as expressed in writing in this Agreement.
- 17.11 This Agreement shall be read with all changes of gender and number required by the context.
- 17.12 (a) The Proponent shall not transfer or convey its interest in all or any part of the Project without, subject to subsection 14.2(b), simultaneously assigning its interest in this Agreement to the transferee, which transferee shall enter into one or more agreements with the City, in a form satisfactory to the City, to assume all of the Proponent's obligations under this Agreement and to provide the City with Security in accordance with this Agreement.
- (b) The Proponent shall not assign its interest in this Agreement and/or the Property without the prior written consent of the City, which consent shall not be arbitrarily or unreasonably withheld;
- (c) For the purpose of this Agreement, a transfer of the beneficial interest in the shares of the Proponent shall be deemed to constitute an assignment if it results in a change in the party or parties who owns or own more than fifty per cent (50%) of the voting shares of the said corporation.
- 17.13 Each of the Parties shall, at any time and from time to time, upon not less than twenty (20) Business Days prior written notice by the other Party, execute and deliver to the other Party a statement in writing certifying that this Agreement is in good standing, unmodified and in full force and effect, or if there have been modifications that the same are in good standing and in full force and effect, as modified, and stating the modifications. Where applicable, the statement shall state the defaults, if any, known to the Party to whom such request has been made and the action taken or proposed to be taken by such requested Party with respect to same.
- 17.14 If more than one entity is a party to this Agreement as a Proponent, all references to the Proponent shall include all of the said entities and this Agreement shall be binding on each jointly and severally.
- 17.15 This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns, provided that this paragraph shall in no way derogate from the provisions herein restricting the Proponent's ability to assign this

Agreement.

IN WITNESS WHEREOF this Agreement has been executed by the **Parties**.

THE CORPORATION OF THE CITY OF LONDON

Josh Morgan, Mayor

Michael Schulthess, City Clerk

WASTELL DEVELOPMENTS INC.

[INSERT NAME]

I have the authority to bind the Corporation.

SCHEDULE "A"
OPTION AGREEMENT

This Option Agreement dated the _____ day of _____, 2024.

Between:

WASTELL DEVELOPMENTS INC.

hereinafter called "the Optionor"
- OF THE FIRST PART -

and

THE CORPORATION OF THE CITY OF LONDON

hereinafter collectively called "the Optionee"
- OF THE SECOND PART -

WHEREAS the Optionor is the owner of an estate in fee simple in the lands hereinafter referred to;

AND WHEREAS the Optionee has conveyed to the Optionor, the lands and premises municipally known as [**inset municipal address**] and legally described as the FIRSTLY: [**INSERT PARCEL REGISTER**], being PART of PIN [**INSERT PIN #**] in the City of London, County of Middlesex hereinafter referred to as the "Property", pursuant to an Agreement of Purchase and Sale dated _____ ("APS") and subject to the conditions contained in the Contribution Agreement to which this Option Agreement is appended;

AND WHEREAS it being a condition of the conveyance of the Property to the Optionor that the Optionee be granted an Option to reacquire the Property in fee simple, free and clear of all liens, claims, charges or encumbrances, under certain conditions;

NOW THEREFORE this agreement witnesseth that in consideration of these covenants and agreements herein contained, and in consideration of the payment or payments made or to be made to the Optionor by the Optionee in accordance with the provisions of this agreement, the Optionor agrees to sell to the Optionee the Property upon the terms and subject to the conditions hereinafter set forth:

1. Capitalized terms in this Agreement not otherwise defined shall have the meaning defined within the Contribution Agreement to which this Option Agreement is appended.
2. The Optionor hereby grants to the Optionee, for a period of twenty-five (25) years commencing _____, (the "Term") the option to purchase the Property for the purchase price as hereinafter set forth subject to the terms and conditions set out herein (the "Option"). The Option shall be exercisable by the Optionee only upon the occurrence of any one of the following events

(the "Triggering Events") during the Term:

- a. The occurrence of an Event of Default under Section 10 of the Contribution Agreement; or
 - b. The Optionor requests the City's consent to assign or otherwise transfer their interest in the Property pursuant to Sections 14.2 (b) and 17.12 of the Contribution Agreement.
3. The Optionor may exercise the Option by the delivery of written notice to the Optionor at any time after the occurrence of a Triggering Event, prior to the expiry of the Term. The date for completion ("Closing") specified in such notice from the Optionee to the Optionor shall be no less than 30 days and no more than 120 days after the date of such notice, subject to any further extensions of Closing required to facilitate the determination of the purchase price.
4. If the Optionor has advised that the Project will not proceed or if an Event of Default occurs prior to Substantial Completion of the buildings on the Property, the Optionee may exercise its Option and the Property will be transferred to the Optionee at nominal consideration. If an Event of Default occurs after Substantial Completion, the purchase price for the Property pursuant to the Option shall be the fair market value of the Property, determined as of the date of the exercise of the Option. The fair market value shall be such amount as is agreed upon by the Optionor and Optionee or, failing such agreement, such amount as may be as determined by a qualified appraiser selected by agreement of the parties or, failing agreement as to an appraiser, the average of the amounts determined by three qualified appraisers, one of whom shall be selected by the Optionor, one of whom shall be selected by the Optionee and the third of whom shall be selected by the other two appraisers. The purchase price shall be paid by cash or cheque of lawful money of Canada as follows:
 - (a) The Optionee shall be credited a setoff against the purchase price equivalent to the total amount of the Loan, being [CITY TO INSERT NUMBER], plus any accrued interest that remains payable at the date of exercise of the Option and any additional amounts the parties may agree remain owing to the Optionee by the Optionor on Closing;
 - (b) the balance of the purchase price shall be paid by the Optionee on Closing, subject to the usual adjustments.
5. The Optionor shall on Closing execute and deliver to the Optionee a good and valid deed or Transfer (the "Conveyance") of the Property in appropriate form for registration in the land registration office where the Property are recorded in order to enable the Optionee to be registered as owner in fee simple of such Property and the Optionor covenants with the Optionee that it will execute such further assurances of the Property as may reasonably be required.
6. Provided the title to the property is good and free from all encumbrances, except as otherwise expressly provided herein, and except as to any registered easements, restrictions or covenants that run with the land, or municipal by-laws, or other governmental enactments, providing that such are complied with. If prior to Closing any valid objection to title or to the fact that the proposed use

of the Property by the Optionee may not lawfully be undertaken is made in writing to the Optionor (or its solicitors) and which the Optionor is unable or unwilling to remove, remedy or satisfy and which the Optionee will not waive, this agreement, notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies therefore paid shall be returned to the Optionee without interest or deduction and the Optionor shall not be liable for any costs or damages.

7. The Optionor covenants to the Optionee that it has the right to convey the Property to the Optionee notwithstanding any act of the Optionor and that the Optionee shall have vacant and quiet possession of the lands free from all encumbrances, except as aforesaid, from and after Closing.
8. The Property and any other things being purchased shall be and remain until Closing at the risk of the Optionor. Pending Closing, the Optionor shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, the Optionee may either terminate this agreement or else take the proceeds of any insurance and complete the purchase.
9. All Harmonized Sales Tax (HST), if any, which may be payable in connection with this transaction shall be in addition to and not included in the Purchase Price. The Optionee is a HST Registrant and will account for its HST liability, if any, in accordance with Subsection 228(4) of the Excise Tax Act.
10. The Optionor shall pay all charges including, without limitation, taxes (including local improvements) levied against the Property up to and including Closing and the Optionee shall pay all said taxes after that date.
11. The Optionor hereby agrees that the Optionee shall have the right to register this Option Agreement, or notice of any of the Optionee's rights hereunder, against the title to the Property, and the Optionor agrees to promptly execute any documents required in connection therewith.
12. This Agreement is conditional on compliance with the subdivision control provisions of the Planning Act (Ontario).
13. This Agreement shall be binding upon and enure to the benefit of the Optionor and the Optionee and their respective successors and assigns and the Optionor covenants and agrees that prior to conveying any interest in the Property it shall obtain an agreement by any successor, assigns or transferee in favor of the Optionee whereby such successor, assign or transferee to be bound by all of the terms of this Agreement in favor of the Optionee.
14. The parties hereto acknowledge each with the other that neither execution nor registration of the Conveyance, nor the issuance of title to the Optionee, shall supersede, cancel or in any way render unenforceable any of the provisions of this agreement.

15. All notices required or permitted to be given hereunder shall be in writing and may be given by either (i) delivering the same to the other party, or (ii) if postal service is fully operative, by mailing same by registered mail postage prepaid:

in case of the Optionee to:

The Corporation of the City of London
Realty Services Division
300 Dufferin Avenue, P.O. Box 5035
London, ON N6A 2L9
Attention: Director, Realty Services

and in the case of the Optionor to:

or to such other address as the Optionee and the Optionor respectively may from time to time designate in writing and any such notice shall be deemed to have been given to and received by the addressee on the date on which it was delivered or if mailed shall be deemed to have been given to and received by the addressee on the fifth business day following the date on which it was deposited in the mail, except in the event of interruption of mail service after mailing, in which event it shall be deemed to have been given when actually received.

IN WITNESS THEREOF the Optionee has hereunto executed this agreement as of the day and year first above written.

WASTELL DEVELOPMENTS INC.

Name:

Title:

Name:

Title:

THE CORPORATION OF THE CITY OF LONDON

Josh Morgan, Mayor

Michael Schulthess, City Clerk

SCHEDULE "B"

RENTAL PROTOCOL

1. DEFINITIONS

1.1 In this Schedule, unless the context requires otherwise,

- **"Affordability Period"** means the minimum twenty-five (25) year period following the date of the first (1st) occupancy of a Unit in the Project;
- **"Agreement"** means the Agreement to which this Schedule is attached;
- **"Average Market Rents"** means the average rent figures, based on geographical areas and classified by bedroom count, as determined annually in the CMHC Average Market Rent Survey;
- **"Phase-out Period"** means the last five (5) year period of the "Affordability Period", and

when used in this Schedule, the term "rent" includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to the Proponent or the Proponent's agent for the right to occupy a Unit and for any services and facilities and any privilege, accommodation or thing that the Proponent provides for the tenant in respect of the occupancy of the Unit, whether or not a separate charge is made for services and facilities or for the privilege, accommodation or thing.

1.2 The definitions in the Agreement shall apply to this Schedule, in addition to the definitions contained in section 1.1 above.

1.3 All references to section numbers in this Schedule are references to sections of the Schedule, unless otherwise explicitly stated.

2. AFFORDABLE RENT

2.1 During the Affordability Period, the Proponent shall not charge rent for a Unit in the Project in excess of the affordable rent permitted under this Schedule nor increase any rent charged for a Unit except as permitted in this Schedule.

3. RENTS

3.1 In no event shall,

- (b) the weighted average rent of all Units in a Project for which Program Funding has been utilized exceed eighty per cent (80%) of CMHC Average Market Rents in the geographical area, as determined in the most recent CMHC Annual Rental Market Survey;
- (b) rent for any Unit exceed one hundred per cent (100%) of the CMHC Average Market Rent for units of a similar type in the geographical area.

3.2 Notwithstanding 3.1(a),

- (b) in the event that eighty per cent (80%) of the CMHC Average Market Rent for units of a similar type in the geographical area is less than one hundred and five per cent (105%) of the modified shelter allowance under the Ontario Works program, the weighted average rent of all Units in a Project for which Program Funding has been utilized shall not exceed one hundred and five per cent (105%) of the modified shelter allowance under the Ontario Works program for units of a similar type;
- (b) in the event that CMHC Average Market Rent data is not available for specific unit types in the geographical area, or where CMHC Average Market Rent may impact Project viability, Service Managers may request alternate average market rent values by submitting a business case to the Minister as set out in the Program Guidelines.

3.3 Notwithstanding 3.1(b),

- (b) in the event that one hundred per cent (100%) of the CMHC Average Market Rent for units of a similar type in the geographical area is less than one hundred and thirty per cent (130%) of the modified shelter allowance under the Ontario Works program, the rents of all Units in a Project for which Program Funding has been utilized shall not exceed one hundred and thirty per cent (130%) of the modified shelter allowance under the Ontario Works program for units of a similar type;
- (b) in the event that CMHC Average Market Rent data is not available for specific unit types in the geographical area, or where CMHC Average Market Rent may impact Project viability, Service Managers may request alternate average market rent values by submitting a business case to the Minister as set out in the Program Guidelines.

3.4 If rent supplements are used for OPHI funded Rental Housing Units, the Service Manager shall ensure that the total rent received by a Proponent,

including rent from the tenant and the rent supplement, shall be subject to 3.1(b) and 3.3.

3.5 If federal and/or provincially funded rent supplements are used for OPHI funded Rental Housing Units, the Service Manager shall ensure that when calculating the weighted average rent for a Project, the total rent received by a Proponent, including rent from the tenants and the federal and/or provincially funded rent supplement shall be considered.

4. RENT INCREASES

4.1 The Proponent may increase the rent charged under section 3.1 with respect to a Unit only if at least twelve (12) months have elapsed, since the day of the last rent increase respecting the Unit, if there has been an increase, or since the day the Unit was first rented for the first (1st) rental period following the completion of the Development Activities in connection with the Project.

4.2 Subject to section 4.3, the Proponent shall not increase the rent pursuant to section 4.1 during the Affordability Period by more than the then prevailing rent increase guideline established for each calendar year pursuant to the *Residential Tenancies Act, 2006* or any successor legislation. The

Proponent acknowledges and agrees that, regardless of whether the rent increase guideline under the *Residential Tenancies Act, 2006* or any successor legislation applies to the Project (the rent increase guideline applies by virtue of the contractual terms of the Agreement and this Sub-Appendix A-4.

- 4.3 From the beginning of the eleventh (11th) year of the Affordability Period until the end of the Affordability Period, in addition to the increase permitted by section 4.2, the Proponent may, subject to any requirements of the Residential Tenancies Act, 2006 or any successor legislation, apply to the Service Manager to increase Unit rents to an amount not to exceed CMHC Average Market Rent for units of a similar type in the geographical area, or alternate rents approved by the Minister.

5. PHASE-OUT PERIOD

5.1 During the Phase-out Period, the Proponent shall not increase the rent charged to *in-situ* tenants of Units by more than the rent guideline increase permitted under section 4.2 and any additional increase that may be approved under section 4.3.

5.2 Upon a Unit becoming vacant during the Phase-out Period, the Proponent may rent the Unit to a new tenant at any rent agreed to by the Proponent and the new tenant.

6. EXCEPTION

- a. Subject to the provisions of the *Residential Tenancies Act, 2006* or any successor legislation, and notwithstanding the provisions of this Sub- Appendix 0-1 C respecting rent increases prior to and during the Phase- out Period, where a Service Manager implements income verification of tenants following the initial occupancy of a Unit, a Service Manager may increase the rent for a Unit by more than the rent increase guideline under the *Residential Tenancies Act, 2006* or any successor legislation, provided that the rent for the Unit does not exceed the CMHC Average Market Rent for units of a similar type for that year and provided that the weighted average rent for the funded Units in a Project does not exceed the permitted rents for the Project.

7. AFTER PHASE-OUT PERIOD

7.1 After the end of the Phase-out Period, the Proponent shall be permitted to rent Units in the Project to new tenants at rents agreed to by the Proponent and the new tenants.

SCHEDULE “C-1”, “C-2”, “C-3”

SECURITY DOCUMENTS

Schedule C-1: City Charge/Mortgage of Land - register in land titles/land registry system

Schedule C-2: Assignment of Rents - register in land titles/land registry system and PPSA

Schedule C-3: Security Agreement (chattels) - register in PPSA

SCHEDULE "C-1"

CITY CHARGE / MORTGAGE OF LAND

ADDITIONAL PROVISIONS: Continued from Page 1 - Box 10 (TERAVEIW)

1. Section 24 of the Standard Charge Terms filed as No. 200033 is deemed to be excluded.
2. This Charge/Mortgage of Land is collateral security for a Contribution Agreement made between the Chargor and the Corporation of the City of London ("Chargee"), dated the _____ day of _____, (the "Contribution Agreement") under which the Chargee contributed a total of **[INSERT AMOUNT]** (\$ _____) (the "Loan") towards the Project and is in addition to and not in substitution for any other security held by the Chargee for all or any part of the monies secured under this Charge/Mortgage of Land.
3. In the event of a breach of the terms of the Security Agreement or the Assignment of Leases and Rents being given by the Chargor to the Chargee simultaneously with this Charge, the principal balance then outstanding, together with any other amounts payable pursuant to the terms of this Charge, shall forthwith become due and payable at the option of the Chargee and all powers conferred by this Charge shall become exercisable by the Chargee.
4. With respect to the portion of the Loan advanced by the Chargee:
 - (a) Prior to the Interest Adjustment Date as defined in the Contribution Agreement, interest shall accrue on the total amount of the Loan at the rate of eight per cent (8%) per annum. The interest so calculated shall compound semi- annually, not in advance, until the Interest Adjustment Date.
 - (b) On the Interest Adjustment Date, the amount of interest accrued shall be forgiven, provided that the Chargor has satisfied all requirements as set out in the Contribution Agreement.
 - (c) With effect from the Interest Adjustment Date, the interest rate shall be at the rate of eight per cent (8%) per annum.
 - (d) On each anniversary date of the Interest Adjustment Date, the Chargor shall pay the Chargee the amount of interest, as calculated according to the interest rate stipulated in paragraph 4(c), so accrued during the previous year; provided, however, if the Chargor has satisfied, as of such anniversary date, the requirements of the Program as set out in the Contribution Agreement, the amount of the interest so owing shall automatically be forgiven.
 - (e) The Loan amount shall be fully forgiven on the last day of the month at the end of the term of the Loan, provided that the Chargor has fulfilled all the requirements of the Program as set out in the Contribution Agreement.
 - (f) Upon the occurrence of any one or more of the Events of Default described in the Contribution Agreement, the Chargee, at its option, may declare the outstanding principal amount of the Loan then advanced, together with all other moneys owing

under the Contribution Agreement, due and payable forthwith.

5. The Chargor covenants with the Chargee that upon request in writing from the Chargee, it will provide the Chargee, within thirty (30) days of receipt of such request, a schedule containing the names of all tenants in the building constructed on the Charged Premises, accompanied by a certificate of an officer of the Chargor confirming the terms of all existing leases, that the same are in full force and effect, that the Chargor has complied with all terms thereof, that there are no outstanding set-offs or equities disclosed or undisclosed as between the Chargor and the tenant, that no money other than a maximum of two (2) months rent has been prepaid by the tenant to the Chargor, and that the tenant is aware of the assignment by the Chargor of all rents and leases affecting the Charged Premises.
6. The Chargor covenants with the Chargee that if the Chargee makes any payment, in connection with the determination, establishment or preservation of its priority, whether such payment is made to a lien claimant or other person claiming an interest in the Charged Premises or is paid into court, then the amount or amounts so paid and all costs, charges and expenses incurred in connection therewith shall be forthwith payable to the Chargee by the Chargor and shall be a charge on the Charged Premises and shall be added to the debt hereby secured and shall bear interest at the said rate, and in default of payment, the power of sale and other remedies hereunder may be exercised. It is further agreed that the Chargee shall not become a mortgagee in possession by reason only of exercising any of the rights given to them under this paragraph or in making any payment to preserve, protect or secure the Charged Premises.
7. The Chargor covenants with the Chargee that in the event of the Chargor selling, conveying, transferring or entering into an agreement for the sale or transfer of title of the Charged Premises to a purchaser or transferee not approved in writing by the Chargee, which approval shall not unreasonably be withheld, delayed or conditioned, all monies hereby secured with accrued interest thereon, at the option of the Chargee, shall forthwith become due and payable.
8. Subject to the renewals, replacements and consolidations permitted in paragraph 13 below, the Chargor shall not further mortgage or encumber the Charged Premises without the prior written approval of the Chargee, save and except for a prior ranking mortgage in favour of Canada Mortgage and Housing Corporation.
9. The Chargor shall take out and maintain throughout the term of the Charge the following insurance, all in a form and with insurers acceptable to the Chargee, acting reasonably:
 - (a) all policies shall include thirty (30) days written notice to the Chargee of material alteration or cancellation and must be signed by the insurer(s) or their authorized representative(s);
 - (b) the policies shall include the Chargee as loss payee, as its interest may appear, and shall contain the Insurance Bureau of Canada approved standard mortgage clause endorsement; all risks, including extended coverage and flood, to full one hundred per cent (100%) replacement cost, and boiler and pressure vessel and machinery insurance;
 - (c) comprehensive or commercial general liability insurance to a limit of not less than five million dollars (\$5,000,000.00) per occurrence;

- (d) general liability coverage for non-owned automobile to a limit of not less than two million dollars (\$2,000,000.00); and
 - (e) co-insurance shall not be acceptable.
- 10.
- (a) The Chargor, at its sole cost and expense, shall comply, or cause its tenants, agents, and invitees, at their sole cost and expense, to comply with all federal, provincial and municipal laws, rules, regulations and orders, with respect to the discharge and removal of hazardous or toxic wastes, and with respect to the discharge of contaminants into the natural environment. The Chargor shall pay immediately when due the cost of removal of any such wastes and the cost of any improvements necessary to deal with such contaminants and keep the Charged Premises free and clear of any lien imposed pursuant to such laws, rules and regulations. In the event the Chargor fails to do so, after notice to the Chargor and the expiration of the earlier of (i) any applicable cure period under the Charge or (ii) the cure period under the applicable law, rule, regulation or order, the Chargee at their sole option may declare the Charge to be in default.
 - (b) The Chargor shall indemnify and hold the Chargee harmless from and against all losses, costs, damages or expenses (including, without limitation, legal fees and costs incurred in the investigation, defence and settlement of any claims) relating to the presence of any hazardous waste or contaminant referred to herein.
11. The Chargee or its agents may, at any time, before and after default, and for any purpose deemed necessary by the Chargee, enter upon the Charged Premises to inspect the lands and buildings thereon. Without limiting the generality of the foregoing, the Chargee or its agents may enter upon the Charged Premises to conduct any environmental testing, site assessment, investigation or study deemed necessary by the Chargee and the reasonable cost of such testing, assessment, investigation or study, as the case may be, shall be payable by the Chargor forthwith and shall be a charge upon the said Charged Premises. The exercise of any of the powers enumerated in this paragraph shall not deem the Chargee or its agents to be in possession, management or control of the said lands and buildings.
12. At any time after the security hereby constituted becomes enforceable, or the moneys hereby secured shall have become payable, the Chargee may appoint in writing a receiver or receiver-manager (the "Receiver") of the Charged Premises, with or without bond, and may from time to time remove the Receiver and appoint another in its stead, and any such Receiver appointed hereunder shall have the following powers:
- (a) To take possession of the Charged Premises and to collect the rents and such property, undertaking and assets of the Chargor assigned and/or charged to the Chargee herein and for such purpose to enter into and upon any lands, buildings and premises and for such purpose to do any act and take any proceedings in the name of the Chargor or otherwise as it shall deem necessary, specifically including, but not limited to managing, operating, repairing, altering or extending the Charged Premises or any part thereof;
 - (b) To employ and discharge agents, workmen, accountants and others upon such terms and with such salaries, wages or remuneration as it shall think proper, to repair and keep in repair the Charged Premises and to do all necessary acts and things for the protection of the said Charged Premises;
 - (c) To sell or lease or concur in selling or leasing any or all of the Charged Premises, or any

part thereof; and to carry any such sale or lease into effect by conveying in the name of or on behalf of the Chargor or otherwise; and any such sale may be made either at public auction or private sale as seen fit by the Receiver; and any such sale may be made from time to time as to the whole or any part or parts of the Charged Premises; and the Receiver may make any stipulations as to title or conveyance or commencement of title or otherwise which it shall deem proper; and it may buy or rescind or vary any contracts for the sale of any part of the Charged Premises and may resell the same, and it may sell any of the same on such terms as to credit or part cash and part credit or otherwise as shall appear in its sole opinion to be most advantageous and at such prices as can reasonably be obtained thereof; and in the event of a sale on credit, neither the Receiver nor the Chargee shall be accountable for or charged with any moneys until actually received;

- (d) To make any arrangement or compromise which the Receiver may think expedient in the interest of the Chargee and to consent to any modification or change in or omission from the provisions of this Charge and to exchange any part or parts of the Charged Premises for any other property suitable for the purposes of the Chargee and upon such terms as may seem expedient and either with or without payment or exchange of money or regard to the equality of the exchange or otherwise;
- (e) To borrow money to carry on the operations of the Chargor at the Charged Premises and to charge the whole or any part of the Charged Premises in such amounts as the Receiver may from time to time deem necessary, and in so doing the Receiver may issue certificates that may be payable when the Receiver thinks expedient and shall bear interest as stated therein and the amounts from time to time payable under such certificates shall constitute a Charge against the Charged Premises in priority to this Charge;
- (f) To execute and prosecute all suits, proceedings and actions which the Receiver, in its opinion, considers necessary for the proper protection of the Charged Premises, and to defend all suits, proceedings and actions against the Chargor or the Receiver, to appear in and conduct the prosecution and defence of any suit, proceeding or action then pending or thereafter instituted and to appeal any suit, proceeding or action;
- (g) To execute and deliver to the purchaser of any part or parts of the Charged Premises, good and sufficient deeds for the same, the Receiver hereby being constituted the irrevocable attorney of the Chargor for the purpose of making such sale and executing such deed, and any such sale made as aforesaid shall be a perpetual bar both in law and equity against the Chargor, and all other persons claiming the said property or any part or parcels thereof by, from, through or under the Chargor, and the proceeds of any such sale shall be distributed in the manner hereinafter provided;
- (h) The net profits of the operations of the Chargor at the Charged Premises and the net proceeds of any sale of the Charged Premises or part thereof shall be applied by the Receiver, subject to the claims of any creditor ranking in priority to this Charge:
 - (i) Firstly, in payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise by it of all or any of the powers aforesaid, including the reasonable remuneration of the Receiver and all amounts properly payable by it;
 - (ii) Secondly, in payment of all costs, charges and expenses payable hereunder;
 - (iii) Thirdly, in payment to the Chargee of the principal sum owing hereunder;

- (iv) Fourthly, in payment to the Chargee of all interest and arrears of interest, if any, and any other monies remaining unpaid hereunder; and
 - (v) Fifthly, any surplus shall be paid to the Chargee, provided that in the event any party claims a Charge against all or a portion of the surplus, the Receiver shall make such disposition of all or a portion of the surplus as the Receiver deems appropriate in the circumstances.
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- (i) During any period wherein the Chargee or any receiver or receiver and manager appointed by it shall manage the Charged Premises or any part thereof, upon or after entry, as provided herein, the Chargee shall not, nor shall any receiver or receiver and manager, be responsible or liable for any debts contracted by it, for damages to any other property or person, or for salaries or non-fulfilment of any contract, save and except as to claims at law or in equity to an accounting; and the Chargee shall not be bound to do, observe, or perform or to see the observance or performance by the Chargor of any of the obligations herein imposed upon the Chargor nor in any other way supervise or interfere with the conduct of the Chargor's operations of the Charged Premises;
 - (j) The Chargee shall not be liable to the Receiver for his remuneration, costs, charges or expenses, and the Receiver shall not be liable for any loss howsoever arising, unless the same shall be caused by his own gross negligence or willful default; and he shall, when so appointed, by notice in writing pursuant hereto, be deemed to be the agent of the Chargor, and the Chargor shall be solely responsible for his acts and defaults and for his remuneration;
 - (k) Save as to claims for an accounting contained in this paragraph, the Chargor hereby releases and discharges any such Receiver from every claim of every nature, whether sounding in damages or not, which may arise or be caused to the Chargor or any person claiming through or under it by reason or as a result of anything done by such Receiver, unless such claim be in direct and proximate result of dishonesty or fraud; The Chargee may, at any time and from time to time, terminate any Receiver by notice in writing to the Chargor and to the Receiver;
 - (l) The statutory declaration of an employee or agent of the Chargee as to default under the provisions of this Charge and as to the due appointment of the Receiver pursuant to the terms hereof shall be sufficient proof thereof for the purposes of any person dealing with the Receiver through its ostensibly exercising powers herein provided for and such dealing shall be deemed, as regards such person, to be valid and effectual;
 - (m) The rights and powers conferred herein in respect of the Receiver are supplemental to and not in substitution of any other rights and powers which the Chargee may have.

SCHEDULE "C-2"

ASSIGNMENT OF RENTS

THIS ASSIGNMENT made this _____ day _____, 2024,

BETWEEN:

WASTELL DEVELOPMENTS INC.
(hereinafter called the "Assignor")

- and -

THE CORPORATION OF THE CITY OF LONDON

(hereinafter called the "Assignee")

WHEREAS:

1. The Assignor is the owner of the lands and premises hereof (the "Premises"), subject to a charge to the Assignee of even date (the "Charge");
2. The Assignor has leased or granted a right of use, occupation or license with respect to parts of the Premises and will from time to time lease or grant a right of use, occupation or license with respect to parts of the Premises.

NOW THEREFORE, the Assignor and the Assignee agree with each other as follows:

1. In consideration of **[INSERT AMOUNT]** (\$_____) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Assignee, the Assignor hereby assigns, transfers and sets over unto the Assignee, its successors and assigns, as security for payment of the principal and interest and other moneys secured by the Charge and for performance of the obligations of the Assignor thereunder, all rents, charges and other moneys (the "Rents") now due and payable or hereafter to become due and payable,
 - (a) under every existing and future lease of and agreement to lease the whole or any portion of the Premises,
 - (b) under every existing and future tenancy, use, occupation or license granted by the Assignor, its successors and assigns, in respect of the whole or any portion of the Premises, whether or not pursuant to a lease, agreement to lease or license, and
 - (c) under every existing and future guarantee of all or any of the obligations of existing or future tenants, users, occupiers or licensees of the whole or any portion of the Premises,

including all rents and other moneys under every lease, agreement to lease, use, occupancy, license and guarantee (the "Leases"), with full power and authority to demand, collect, sue for, recover, receive and give receipts for the Rents, and to enforce payment of the same in the name of the Assignor, its successors and assigns, or otherwise.

2. The Assignor shall be permitted to collect and receive the Rents as and when the same shall become due and payable according to the terms of the Leases, unless and until the Assignor is in default under any of the provisions of the Charge and thereafter, the Assignee shall give notice to the tenant, user, occupier, licensee or guarantor, requiring the same to pay the Rents to the Assignee, which notice shall be binding upon the Assignor and may not be contested by it.
3. The Assignor represents, warrants, covenants and agrees that, subject to the provisions of paragraph 9,
 - (a) none of the Leases or the Assignor's rights thereunder, including the right to receive the Rents, have been or will be amended (except in the ordinary course of business), assigned, encumbered, discounted (save and except in connection with any settlement with a defaulting tenant in the ordinary course of business) or anticipated in priority to this Assignment, without the prior written consent of the Assignee;
 - (b) it has not and will not do or omit to do any act having the effect of terminating, canceling or accepting surrender of any of the Leases or of waiving, releasing, reducing or abating any rights or remedies of the Assignor or obligations of any other party thereunder or in connection therewith;
 - (c) none of the rights, remedies and obligations are or will be affected by any reduction, abatement, defense, set-off or counterclaim;
 - (d) none of the Rents under any of the Leases has been or will be paid in advance, except rent for the ensuing month and rent for the last month of the term of the lease;
 - (e) none of the Rents under any of the Leases has been paid prior to the due date for payment thereof;
 - (f) there has been no default under any of the Leases;
 - (g) there is no outstanding dispute under any of the Leases between the Assignor and any other party thereto;
 - (h) each of the Leases is valid, enforceable and in full force and effect;
 - (i) the Assignor shall observe and perform all of its obligations under the Leases.
4. Nothing herein contained shall have the effect of making the Assignee, its successors or assigns, responsible for the collection of the Rents or any of them or for the performance of any obligations or provisions under or in respect of the Leases or any of them to be observed and performed by the Assignor; and the Assignee shall not, by virtue of this

Assignment or their receipt of the Rents or any of them, become or be deemed to be a mortgagee in possession; and the Assignee shall not be under any obligation to take any action or exercise any remedy in the collection or recovery of the Rents or any of them, or to see to or enforce the performance of the obligations and liabilities of any person under or in respect of the Leases or any of them or to see to or enforce the performance of the obligations and liabilities of any person under or in respect of the Leases or any of them; and the Assignee shall be liable to account only for such moneys as shall actually come into its hands, less proper collection charges and such moneys may be applied on account of any indebtedness of the Assignor to the Assignee.

5. In the event the Assignee shall have exercised its rights under paragraph 2 and shall have received any of the Rents and if the Assignor shall cure the default under the Charge which gave rise to such exercise and shall have resumed collection of the Rents, the Assignee shall provide the Assignor with details of all Rents received by them prior to such resumption.
6. The Assignor covenants and agrees to execute such further assurances as may be reasonably required by the Assignee from time to time to perfect this Assignment and without limiting the generality of the foregoing, upon the request of the Assignee made at any time, it shall assign, transfer and set over unto the Assignee the Leases or such of them so requested by a valid assignment thereof and shall give any other parties thereto a notice of such assignment and shall obtain from them acknowledgements of such notice, and the Assignor hereby irrevocably appoints the Assignee its attorney to effect and execute such assignment.
7. A full and complete Discharge of the Charge shall operate as a full and complete release and re-assignment of all of the Assignee's rights and interest hereunder, and after the Charge has been fully discharged, this instrument shall be void and of no further effect. In the event further documentation is required for such release and re-assignment, the Assignees shall execute the same promptly, upon request by the Assignor.
8. This Assignment is given in addition to and not in substitution for any other security held by the Assignee for all or any part of the monies secured under the Charge. It is understood and agreed that the Assignee may pursue its remedies under the Charge or hereunder or under any other security, concurrently or successively, at its option. Any judgment or recovery hereunder or under any other security held by the Assignee for the monies secured under the Charge shall not affect the right of the Assignee to realize upon this or any other security.
9. This Assignment is hereby postponed to the Assignment of Rents registered against the Premises as of the date of registration of this Assignment and any extension or renewal thereof and any specific assignment of Rents made thereunder from time to time.
10. This Assignment shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF this Assignment has been executed on behalf of the Assignor by its authorized officers.

[INSERT PROPONENT]

[INSERT NAME AND TITLE]

I have the authority to bind the Corporation.

SCHEDULE "C-3"
SECURITY AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2024,

BETWEEN:

WASTELL DEVELOPMENTS INC.
(hereinafter called the "Assignor")

- and -

THE CORPORATION OF THE CITY OF LONDON

(hereinafter called the "Assignee")

1. SECURITY INTEREST

1.1 **IN CONSIDERATION** of [INSERT AMOUNT] (\$_____) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Assignees, the Assignor hereby grants, bargains, assigns and transfers to the Assignees a fixed and specific mortgage and charge, as and by way of a continuing security interest (the "Security Interest") in the following property now or hereafter owned or acquired by or on behalf of the Assignor:

Equipment - All tools, machinery, equipment, furniture, plants, fixtures, and other tangible personal property, fixed goods, chattels or assets of the kind, nature or description of the property particularly described in Schedule "B" hereto (the "Collateral").

1.2 The Security Interest is given for the payment of all obligations, indebtedness and liabilities, direct and indirect, of the Assignor to the Assignee, pursuant to the charge/mortgage (the "Charge") given by the Assignor to the Assignee, registered on [insert date and Registry Office: _____] as Instrument No. [insert number: _____], including extensions or renewals thereof (the "Obligations").

2. LOCATION OF PROPERTY

2.1 The Assignor confirms and warrants that the Collateral shall be kept at [INSERT MUNICIPAL ADDRESS], London, Ontario more particularly described in Schedule "A1" hereto, and that the Assignor shall not remove any of the Collateral from said location, without the prior written consent of the Assignee.

3. REPRESENTATIONS, WARRANTIES AND COVENANTS

3.1 The Assignor hereby represents, warrants and covenants to or with the Assignee, as the case may be, that:

- (a) the Assignor shall reimburse the Assignee for all costs and expenses, (including legal fees on a solicitor and his own client basis), incurred by them in the filing of this Agreement and the taking, recovering or possessing the Collateral, and in any other proceedings taken for the purpose of protecting or enforcing the remedies provided herein, or otherwise in relation to the Collateral or by reason of non-payment of the Obligations, and all such costs and expenses shall be payable on demand;
- (b) at the time of execution and delivery of this Security Agreement, the Assignor is and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible title to the Collateral, free of any charge, lien, charge, security interest or encumbrance.
- (c) the Assignor shall not remove any of the Collateral from the lands and premises described in paragraph 2, without the Assignee's prior written consent, unless such Collateral is worn out or obsolete and provided that prior to such removal such Collateral is replaced with other Collateral of comparable quality, which shall be free of any mortgage, lien, charge, security interest or encumbrance, from time to time, of the said lands and premises;
- (d) the Assignor shall care for, protect and preserve the Collateral and shall not permit its value to be impaired, and shall not sell, transfer, assign, mortgage, charge, pledge, hypothecate or deliver or otherwise dispose of any such property or any interest therein from time to time, of the lands and premises described in Schedule A1, without the prior written consent of the Assignee;
- (e) the Assignor shall keep the Collateral insured under the policies provided for in the Charge;
- (f) the Assignee shall be entitled, from time to time and at any time, to inspect the Collateral wherever located and to make enquiries and tests concerning the Collateral, and the Assignor shall defray all expenses in connection therewith; and
- (g) this Agreement has been properly authorized and constitutes a legally valid and binding obligation of the Assignor in accordance with its terms.

4. USE OF SPECIFICALLY CHARGED PROPERTY

4.1 Until the occurrence of an event of default, as hereinafter provided, the Assignor may use the Collateral specifically charged in any lawful manner not inconsistent with this Agreement.

5. EVENTS OF DEFAULT

5.1 Obligations not payable on demand shall immediately become payable upon the

occurrence of one (1) or more of the following events of default:

- (a) the Assignor fails to pay when due any of the Obligations, or to perform or rectify a breach of any of the representations, warranties or covenants of this Agreement or of the Charge;
- (b) the Assignor ceases or threatens to cease to carry on business, becomes insolvent or the subject of bankruptcy or insolvency proceedings;
- (c) an encumbrancer takes possession of any of the Collateral or any process of execution is levied or enforced upon or against any of the Collateral;
- (d) indebtedness or liability of the Assignor, other than to the Assignee, becomes due and payable, or capable of being declared due and payable, before the stated maturity thereof, or any such indebtedness or liability shall not be paid at the maturity thereof or upon the expiration of any stated applicable grace period thereof, or any guarantee given by the Assignor is not honoured when due and called upon;

and the Assignee shall have all rights and remedies under the applicable laws, as well as any other rights and remedies provided by this Agreement.

6. ADDITIONAL POWERS UPON DEFAULT

- 6.1 In addition to the rights and powers provided in paragraphs 5 and 8 and under the *Personal Property Security Act*, the Assignee and the Receiver, as defined in paragraph 8, shall have the following rights and powers, if the security hereby constituted becomes enforceable:

to dispose of any of the Collateral in the condition in which it was at the date possession of it was taken, or after any commercially reasonable repair, processing or preparation thereof for disposition; and the Assignor shall from time to time forthwith on the Assignee's request, execute, do and make all such agreements, statements, further assignments, acts, matters and things which may, from time to time, in the opinion of the Assignee, be necessary or expedient for the purpose of carrying into effect any of the provisions hereof and of perfecting the title of the Assignee in the collateral; and the Assignee and any of its managers or acting managers are by the Assignor hereby irrevocably constituted and appointed the true and lawful attorney of the Assignor, with full power of substitution for the Assignee, at its option, whenever and wherever it may deem necessary or expedient to do, make and execute all such statements, assignments, documents, acts, matters or things, with the right to use the name of the Assignor.

7. WAIVER BY THE ASSIGNEE

- 7.1 Any breach by the Assignor of any of the provisions contained in this Agreement or any default by the Assignor in the observance or performance of any covenant or condition required to be observed or performed by the Assignor hereunder may only be waived by the Assignee in writing, provided that no such waiver by the Assignee shall extend to or be taken in any manner to affect any subsequent breach or default or the rights resulting therefrom.

8. APPOINTMENT OF RECEIVER AND MANAGER

8.1 The Assignee may appoint in writing any person, whether an employee or employees of the Assignee or not, to be a receiver or a receiver and manager (the "Receiver") of the Collateral or any part of parts thereof.

8.2 A receiver so appointed shall have power:

- (i) to take possession of, collect and get in the Collateral or any part thereof, and for that purpose to take any proceedings in the name of the Assignor or otherwise; and
- (j) to sell or concur in selling any of the Collateral.

8.3 Any Receiver so appointed shall be deemed to be the agent of the Assignor. The Assignor shall be solely responsible for the Receiver's acts or defaults and for the Receiver's remuneration and expenses. The Assignees shall not, in any way, be responsible for any misconduct or negligence on the part of the Receiver.

8.4 All moneys received by the Receiver after providing for payment of all costs, charges and expenses of or incidental to the exercise of any of the powers of the Receiver shall be applied in or towards satisfaction of the Security Interest.

8.5 The rights and powers conferred by this paragraph are in supplement of and not in substitution for any rights the Assignees may have from time to time.

9. NOTICE

9.1 The Assignor shall be entitled to not less than fifteen (15) days notice in writing of the date, time and place of any intended disposition of the Collateral, such notice to be sent by registered mail to the last known registered office address of the Assignor.

10. APPROPRIATION

10.1 The Assignee shall have the right, at any time, to appropriate any payment made to any portion of the Obligations and to revoke or alter any such appropriation.

11. TERM

11.1 This Agreement shall be a continuing agreement, in every respect, for the payment of the Obligations and it shall remain in full force until all of the Obligations shall be paid in full. In the event any provisions of this Agreement shall be deemed invalid or void by any court of competent jurisdiction, the remaining terms and provisions of this Agreement shall remain in full force and effect.

12. NON-SUBSTITUTION

12.1 The Security Interest is in addition to and not in substitution for any other security now or hereafter held by the Assignee.

13. ACKNOWLEDGEMENT

13.1 The Assignor acknowledges receipt of a copy of this Agreement.

IN WITNESS WHEREOF this Assignment has been executed on behalf of the Assignor by its authorized officers.

[INSERT PROPONENT]

[INSERT NAME & TITLE]

I have the authority to bind the Corporation.

SCHEDULE "A"

LOCATION OF THE COLLATERAL

Property Address: [INSERT ADDRESS]

PIN: [INSERT PIN]

Description: [INSERT DESCRIPTION]

SCHEDULE "B"

PROPERTY COMPRISING THE COLLATERAL

All refrigerators, stoves, washers, dryers and all other items of personal property owned by the Assignor and located on or used in connection with the operation of the lands and premises described in Schedule "A1".

SCHEDULE “D”

PERMITTED ENCUMBRANCES

[NTD: CITY TO INSERT NUMBER]

1. Such easements and restrictive covenants as do not prevent the Project from being constructed or used as Affordable Rental Housing.
2. Municipal agreements relating to the Development Activities in connection with the Project.

**SCHEDULE “E”
LEGAL DESCRIPTION OF PROPERTY AND THE PROJECT**

Property Address:

PART OF PIN:

Legal Description:

[NTD: The City will insert the legal description, a reference plan is currently being developed for the land]
(the “Property”)

EXHIBIT “1”

**The Project: 1958 Duluth Crescent, Block 5 – Building A and Building B
Number of Units: 100 Affordable housing units**

SCHEDULE “F” PROJECT INFORMATION FORM

Service Manager: City of London

Project Name: 1958 Duluth Crescent – Block 5 Building A

Proponent Information

Wastell Developments Inc.
5-1895 Blue Heron Drive
London, Ontario N6H 5L9
Phone: 519 850-0020
Email: julian@wastell.ca

Proponent Type: private corporation

Project Information

Number of Affordable Residential Housing Units created: [100]

Number of market units created: []

Total number of units created: []

Building Type: Apartment

Included in Rent: Heating, air conditioning, water, refrigerator and stove

Anticipated First Occupancy Date:

Unit Type	Number of Units	Unit Sizes
Bachelor Affordable	[FOR DISCUSSION]	Minimum 40.0 m ² , Average 41.8 m ²
Bachelor Market	[FOR DISCUSSION]	Minimum 40.0 m ² , Average 41.8 m ²
One-Bedroom Affordable	[FOR DISCUSSION]	Minimum 48.7 m ² , Average 55.0 m ²
One-Bedroom Market	[FOR DISCUSSION]	Minimum 48.7 m ² , Average 55.0 m ²
Total	[]	

Monthly Rent:

In accordance with funding agreements between the Proponent and other levels of government, and as required to establish a viable project proforma, the range of rents will be established using the London area Average Market Rent, as posted by Canada Mortgage and Housing Corporation.

Approval

Date of Council Approval: January 21st, 2025

Date of MMAH Approval:

SCHEDULE “G”
OPHI PROGRAM GUIDELINES
Ontario Priorities Housing Initiative (OPHI)

Program Components

OPHI offers the following program components to Service Managers:

- (1) Rental Housing component
- (2) Homeownership component
- (3) Ontario Renovates component
- (4) Rental Assistance component
- (5) Housing Support Services component

Details on each component are included in these Guidelines.

Service Managers have the flexibility to select the components they will deliver each year using their OPHI approved and planned annual funding allocations. Planned commitments and projected take-up for selected program components must be identified in each Service Manager’s Investment Plan – see page 6.

Funding Allocations

Allocations are based on the Service Manager’s share of all households in Ontario and their share of Ontario households in core housing need equally weighted.

The following documentation is required to commit funds under OPHI:

- Rental Housing – Contribution Agreement and confirmation of security
- Homeownership – Approved project information in Transfer Payment Ontario (TPON) System and Agreement of Purchase and Sale, or Funding/Contribution Agreement with non-profit developer and confirmation of security
- Ontario Renovates – Approved project information in Transfer Payment Ontario (TPON) System, confirmation of security (mortgage or promissory note), either an executed Letter of Agreement or Funding Agreement
- Rental Assistance – Commitment letter from the Ministry
- Housing Support Services – Services Agreement with a Support Services Agency or equivalent, payments for services if applicable

NOTE: Funding allocations are provided on a “use it or lose it” basis, since funding from one year cannot be reprofiled by the Ministry to future years. Therefore, funding for both OPHI operating components – Rental Assistance and Housing Support Services – must be disbursed in the program year in which the funding was committed. Funding cannot be extended beyond the program year.

Funding Commitments

Funding allocations are provided on a “use it or lose it” basis. Funds not committed by the required timelines may be reallocated to other Service Managers.

Capital Components

Rental Housing component funding allocations must be committed by December 15 of each program year.

For the **Homeownership** and **Ontario Renovates** components, no more than 10 percent of each component's funding allocation may be planned for take-up in the fourth quarter of the respective program years. A minimum of 90 percent of the annual funding allocations for each component must be committed by December 15 of each program year.

Notwithstanding the above, any funding that remains to be committed by January 31 of each program year may be reallocated to other Service Managers.

Operating Components

Allocations for the Rental Assistance component will be committed at the beginning of each program year through a letter from the Ministry based on the projected disbursements identified in the Service Manager's Council-approved Investment Plan. Housing Support Service funding will be committed based on the submission of Services Agreements (or equivalent if delivered directly by the Service Manager).

Service Managers who directly deliver the Rental Assistance component and/or the Housing Support Services component are required to report on program take-up through their quarterly Investment Plan updates. The Ministry will provide quarterly payments to Service Managers based on projected disbursements. Service Managers will be required to provide copies of rent supplement Landlord Agreements and Services Agreements under the Housing Support Services component to demonstrate program take-up.

Reallocation

To ensure all funds are committed, Service Managers may move funding from one OPHI component to another within the same program year if the original planned commitment for funding cannot be met, as follows:

- Funding originally planned for a capital component (Rental Housing, Homeownership and the Ontario Renovates) can be reallocated to another capital component
- Funding originally planned for an operating component (Rental Assistance component's Rent Supplement stream and Housing Allowance Direct Delivery stream, or the Housing Support Services component) can be reallocated to another operating component (for more information on delivery streams please refer to Page 48)
- No funding for the Housing Allowance Shared Delivery stream can be moved to or from the other OPHI components, without ministry approval. Service Managers that would like to move funds between Shared Delivery and other OPHI components must submit a business case with a strong rationale to the ministry for approval. The business case shall include the reasons why the funding must be moved and a plan for how the moved funds will be used to ensure that the Service Manager's full allocation is spent by the program deadlines. Please note that submission of a business case does not guarantee approval by the Ministry.
- If a Service Manager wishes to realign funding from the capital components to either the Rental Assistance Component's Direct Delivery Streams or the Housing Support

Services component, or vice versa, a request for realignment shall be submitted to the Ministry by October 15 of the applicable year for which the realignment is requested. The Ministry will attempt to accommodate such requests but cannot guarantee approval.

Under the capital components, all annual funding allocations must be committed to projects within the specified timelines in each program year; otherwise, the outstanding funding allocation may be reallocated to other Service Managers. The Ministry will review Service Managers' third quarter

Investment Plan updates for each program year to determine whether funding targets will be met and whether reallocation is needed.

Any funding remaining to be committed after January 31 of each program year may be reallocated. Any funding that is reallocated from a Service Manager will be deducted from that Service Manager's total overall allocation.

Rental Housing Component

The Rental Housing component will:

- Increase the supply of community rental housing for households on, or eligible to be on, social housing waiting lists
- Ensure that safe, adequate, and affordable rental housing is available to Ontario households

Eligibility Criteria - Projects

Eligible projects must be non-profit/municipal/co-operative developments or partnerships, and be one of the following:

- New construction, including additions and extensions
- Acquisition and, where required, rehabilitation of existing residential buildings to maintain or increase the affordable rental housing stock
- Conversion of non-residential buildings or units to purpose-built rental buildings/units

Social housing redevelopment which involves building new affordable rental units/additions on social housing sites is eligible provided that the appropriate ministerial or Service Manager consent, as applicable, is obtained as per the *Housing Services Act, 2011*.

Amendments to the *Housing Services Act, 2011*, effective January 1, 2017, have resulted in changes to consent authorities. Specifically, Service Managers now have consent authority for the transfer of most social housing properties. Please refer to the Guide for Service Manager Consents under the *Housing Services Act, 2011* which can be found at: <https://www.ontario.ca/page/consent-authority-service-managers>

Ineligible Projects

Projects that are **not eligible** include:

- Projects proposed by private sector proponents without non-profit/municipal/co-operative partnership*
- Additional units (secondary or garden suites) in owner-occupied housing (eligible only under the Ontario Renovates component)
- Nursing and retirement homes
- Shelters and crisis care facilities
- Owner-occupied housing
- Student residences

*Canada Mortgage and Housing Corporation has made available other programs – for example, the National Housing Co-Investment Fund – to support the development of affordable units by private developers. The Ministry is interested in focusing OPHI funding on the development of community housing that will provide longer-term public benefit.

Eligibility Criteria – Units

Units must be modest in size and amenities relative to other housing in the community. Units are expected to be self-contained. Proponents who wish to develop congregate living buildings (rooms with shared living spaces) for supportive housing may be eligible for program funding and should provide a rationale in order to receive funding.

Service Managers may establish size and amenity requirements. If Service Managers do not set size requirements, the following provincial minimum and average size requirements can be used as a guideline for new construction projects.

	Bachelor	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom
Minimum	40.0 m ²	48.7 m ²	60.4 m ²	83.6 m ²	102.2 m ²
Average	41.8 m ²	55.0 m ²	67.4 m ²	92.9 m ²	109.2 m ²

Up to 30 percent of the total available space may be used for non-residential purposes, including common areas and services used directly with the residential accommodation such as office space for support services providers.

Project Submission Process

Service Managers will solicit proposals and select Rental Housing projects to recommend to the Ministry for funding approval. All procurement processes must be in accordance with the *Municipal Act, 2001* or the *City of Toronto Act, 2006* (applicable to the City of Toronto).

Service Managers will submit recommended projects for the Ministry’s consideration within the allocation set out in their Investment Plans.

Recommended projects shall:

- Be approved by council and/or board based on municipal/board procurement practices and in accordance with the *Municipal Act, 2001* or the *City of Toronto Act, 2006* (applicable to the City of Toronto)
- Be able to sign a Contribution Agreement and confirm registration of security (in a format that is applicable) no later than **December 15** of each program year
- Be able to start construction within 120 days after signing a Contribution Agreement and be completed within four years
- Be financially viable from a construction and operating cost perspective – based on Service Manager confirmation
- Meet the current Ontario Building Code and comply with the CMHC-provided checklist in Appendix C
- Have unit rents that are at or below the Canada Mortgage and Housing Corporation Average Market Rent for the community or as approved by the Ministry for a minimum of 20 years (see “Affordability Criteria and Rents” on page 31 for additional details)
- Project weighted average rent must be at or below 80 percent of CMHC AMR
- Provide the required equity, if applicable – 4 percent for partnerships between private sector and non-profit organizations; zero (0) percent for non-profit organizations
- Address local housing needs and target tenant groups identified in local housing and homelessness plans
- Be designed to maximize achievable reductions in energy consumption and

greenhouse gas emissions relative to minimum requirements (i.e., meet or exceed the current National Energy Code or Ontario Building Code requirements for new construction; and maximize the achievable energy savings where possible when planning work or retrofits for renovations/repairs). The Ministry will provide guidance and requirements for energy consumption and greenhouse gas emissions reductions in a separate communication to SMs.

- Have an occupancy plan in place to ensure that units will be occupied in a timely manner

Further, Service Managers are encouraged to give priority consideration to projects that:

- Have Contributions by Others, including the Service Manager, local municipality, and proponent – to be used in partnership with OPHI Rental Housing funding
- Include family-sized (multi-bedroom) units
- Are fully accessible and/or have units that are accessible to persons with disabilities
- Provide community employment benefits (for project with total contributions \$10M or above) including:
 - Work contracts for small and medium-sized businesses (As per Statistics Canada, a small enterprise has fewer than 100 employees and a medium enterprise has 100 to 499 employees)
 - Job creation for apprentices, Indigenous peoples, women in construction, veterans, and newcomers to Canada
- Have support service funding in place, if applicable

Project Approval Process

Project approval will be based on construction readiness, the ability to meet the program's eligibility criteria, financial viability and value for money, and alignment with the Investment Plan.

For each recommended project recommended for funding, Service Managers are required to create and submit Project Information Forms through TPON to the Ministry no later than November 30 of each program year. All projects must be submitted through TPON along with additional project background information such as that contained in Council/board reports.

Once approved, a project will receive a Conditional Letter of Commitment (CLC) from the Ministry, which confirms Ministry approval and outlines the steps to take prior to signing a Contribution Agreement.

The Contribution Agreement describes the legal obligations and reporting requirements for the project. All Service Managers are required to enter into Contribution Agreements directly with proponents.

Funding

Service Manager funding for the Rental Housing component is provided as a forgivable capital loan.

The OPHI Rental Housing component will fund up to 75 percent of the pro-rated share of the capital costs of the affordable units. Total capital costs include land, financing, hard (construction) and soft costs but less any HST rebates.

To encourage the development of family-sized units, and in recognition of the variance in costs across the province, per unit funding caps have been eliminated under the OPHI Rental Housing component. Service Managers are encouraged to consider factors such as unit bedroom size, unit type (e.g., low-rise apartment, high-rise apartment, townhouse), or geographic location of the project within the

Service Manager's service area when determining project funding amounts. The Ministry, however, will only approve projects that are determined to provide value for public money and are modest relative to other housing in the community.

Service Managers are required to perform their due diligence to ensure that a project is financially viable from a construction cost and on-going operating context, that costs per unit are accurate and that the program expenditures represent a prudent and best value use of public dollars.

The Ministry, at its discretion, may require further information from the Service Manager or an independent analysis to confirm project financial viability including soft, hard and land costs (including any details regarding acquisition and local market conditions) to develop affordable housing units.

Funding Commitment

As funding allocations must be committed for the program, the deadline to execute Contribution Agreements and confirmation of security is December 15 of each program year to allow time for reallocation of funds if necessary. Service Managers that have not signed a Contribution Agreement or have not begun construction by the required dates may have their funding reallocated.

Contributions by Others

In addition to the mandatory program requirements, Service Managers, municipalities, and proponents are encouraged to provide additional contributions in order to increase the financial viability of the project and/or to provide deeper affordability for tenants.

Contributions by Service Managers and/or municipalities may include: planning approvals application fees; building permit fees; and full property tax exemptions as well as contributions of municipal grants, and municipally owned land.

Where appropriate, and to avoid the granting of bonuses, a Service Manager will need to ensure that an appropriate policy or program (e.g., Community Improvement Plan (per Section 28 of the *Planning Act, 1990*), Municipal Housing Facilities By-law (per Section 110 of the *Municipal Act, 2001* – see page 33)) is in place to enable municipal contributions.

For additional information on this and other municipal tools and incentives for affordable housing development, please contact the appropriate service manager, municipality, and/or respective Regional Municipal Offices Team Leads for more information.

Contributions by proponents may include land or cash, including that from fundraising and donations.

Payment Process

The Ministry will advance funding directly to Service Managers, who will be responsible for making project payments to housing proponents. Service Managers will advance funds to proponents based on the completion of construction milestones and compliance with the program requirements.

Funding will be advanced to Service Managers based on the following instalments:

- 50 percent at signing of the Contribution Agreement and confirmation of registration of security.

- 40 percent at confirmation of structural framing for new construction or 50 percent completion for acquisition and rehabilitation projects.
- 10 percent at confirmation of occupancy, submission of Initial Occupancy Report, including actual capital costs.

The Ministry may consider accelerated payments for acquisition/modular projects on a case-by-case basis.

All final payments are required to be made within four years of signing the Contribution Agreement. Service Managers are required to ensure that all projects are completed and request the final payment prior to this deadline.

Eligible Target Groups

The Rental Housing component aims to create affordable rental housing for households that are on, or eligible to be on, social housing waitlists. This includes, but is not limited to:

- Seniors
- Persons with disabilities
- Indigenous peoples
- People with mental health or addictions issues
- Survivors of domestic violence
- Those who are homeless or at risk of homelessness
- Recent immigrants
- Working poor
- Veterans
- Racialized groups

Income Verification

Service Managers are required to establish maximum income levels for OPHI-funded Rental Housing units at the time of initial tenancy; however, all households must be on, or eligible to be on, the waiting list for social housing. Service Managers must establish an approach for income verification to ensure that households in need are targeted.

Annual income verification is at the Service Manager's discretion.

Affordability Criteria and Rents

Projects approved under the Rental Housing component must remain affordable for a minimum period of 20 years. Affordability is defined as having both of the below criteria:

- 1) Individual unit rents for the project must be at or below Canada Mortgage and Housing

Corporation Average Market Rent (CMHC AMR) at the time of occupancy. Individual unit rent is calculated using actual rents paid by tenants and any rent supplements provided by the Service Manager.

- 2) The project weighted average rent must be at or below 80 percent of CMHC AMR. The project weighted average rent considers the proportion and project's total number of units of varying sizes and types.

Service Managers have flexibility in setting rent paid by tenants as long as rent for each unit is at or below CMHC AMR and the project weighted average rent does not exceed 80 percent of the project's weighted average CMHC AMR. An illustration is provided below:

Weighted Average Based on CMHC AMR:				Project Weighted Average Rent:		
Bedroom Type	No. of Units	CMHC AMR	Weighted Average CMHC AMR	Proposed Rent	No. of Units	Weighted Average of Actual Rent
1BR	2	1,000	2,000	100	2	200
2BR	3	1,200	3,600	1,200	3	3,600
3BR	5	1,500	7,500	1,300	5	6,500
Weighted Average Based on CMHC AMR	10		1,310	Project Weighted Average	10	1,030
80 percent of Weighted Average	1,048			Project's Weighted Average Rent	79 percent	
				Proposed Rent is 79 percent of CMHC AMR		

Projects may include both OPHI Rental Housing and market units, but only units with rents that meet affordability requirements will receive OPHI funding.

If rent supplements are used for OPHI-funded units to provide deeper affordability for tenants, the Service Manager shall ensure total rent received by a Proponent, including rent from the tenant and any rental supplements from the Service Manager or other party shall not exceed 100 percent of Canada Mortgage and Housing Corporation Average Market Rent. In addition, the total of the rent paid by the tenant and any federal and/or provincially funded rent supplements paid to the proponent must be used to calculate the weighted average rent in a project.

Rent increases after initial occupancy must be made in accordance with rules established in the *Residential Tenancies Act, 2006*. New rental buildings (no part of which was occupied for residential purposes on or before November 15, 2018) are technically exempt from the *Residential Tenancies Act, 2006* rent increase guidelines but are subject to terms and conditions in the Transfer Payment Agreement. The Transfer Payment Agreement states that rent increases follow the *Residential Tenancies Act, 2006* rent increase guidelines but must still remain at or below 100 percent of Canada Mortgage and Housing Corporation Average Market Rent and that average weighted rents for the project must not exceed 80 percent of Canada Mortgage and Housing Corporation Average Market Rent.

Alternate Average Market Rent Values

The intent of the Rental housing component is to develop affordable rental housing units for low to moderate income households and to provide longer-term public benefit. As such, the individual units created under this component must adhere to the affordability rule of being at or below CMHC AMR and a project weighted average at or below 80 percent of CMHC AMR.

If Canada Mortgage and Housing Corporation Average Market Rents are not available for certain communities, or the Service Manager believes that the Canada Mortgage and Housing Corporation Average Market Rents may impact project viability, the Service Manager may request alternate average market rent values. Service Managers may request alternate average market rent values by submitting a business case to the Ministry for a project that includes a strong rationale for alternate average market rent values to justify project viability. All such requests will be reviewed on a case-by-case basis and Ministry approval is not guaranteed.

General Requirements

The following general program requirements apply to projects approved under the Rental Housing component:

Municipal Housing Facility By-law

- Where appropriate a Service Manager will ensure that a Municipal Housing Facility By-law is available to enable municipal contributions in accordance with the *Municipal Act, 2001* or the *City of Toronto Act, 2006* (applicable to the City of Toronto).
- Where a District Social Services Administration Board (DSSAB) is the Service Manager, collaboration with the appropriate local municipality will be required to ensure a Municipal Housing Facility By-law is available to proponents when deemed necessary.

Note: A Municipal Housing Facilities By-law and Agreements are a tool available under *Section 110 of the Municipal Act, 2001 and O. Reg 603/06* (among many other tools under the *Municipal Act, 2001 and Planning Act*) that may help facilitate municipal contributions and incentives for housing development. It may not always be appropriate and/or required for all housing developments. For more information contact the appropriate Service Manager, municipality, and/or respective Regional Municipal Offices Team Leads.

Municipal Capital Facilities Agreement

Municipal Capital Facilities Agreements per O. Reg 603/06 may be used by municipalities to create relationships with other parties to deliver municipal facilities. An example of this may involve an agreement between a municipality and a not-for-profit organization in which the municipality provides financial assistance for affordable housing facilities.

Under these agreements, assistance provided by a municipality may include: giving or lending money; giving, leasing, or lending property; guaranteeing borrowing; providing the services of employees of the municipality; and/or providing tax exemptions or reductions.

Construction

- Projects must start construction within 120 days of signing a Contribution Agreement
- Projects that do not start construction within 120 days of signing a Contribution Agreement may, at the Ministry's discretion, have program funding withdrawn and reallocated to another Service Manager (SM)/Indigenous Program Administrators (IPA)
- Written confirmation of construction start must be provided to the Ministry
- Site inspections will be conducted at the discretion of the Ministry
- Projects must complete construction within four years of signing a Contribution Agreement

Service Managers must inform the ministry as soon as possible if a project is at risk of not being completed within the four-year deadline.

Equity

- Minimum four percent equity must be provided for projects sponsored by partnerships between private companies and non-profit organizations.
- No equity contribution is required for projects sponsored by non-profit or co-operative housing organizations to encourage participation by these groups in the program.
- Please note that private lenders may have additional equity requirements.

Municipal Property Tax

- Service Managers/Municipalities are required during the first 20-year affordability period of projects greater than seven units to either:
 - Reduce property taxes for Rental Housing projects by setting it at a rate equivalent to, or lower than, the single residential rate for the area; or
 - Provide a grant in lieu of this property tax reduction.

Indemnification and Repayment

There are obligations for all OPHI parties with regard to the indemnification and recovery of government funding. Specific obligations and provisions are included in the Transfer Payment Agreement.

Reporting

In addition to individual project submission through the TPON, Service Managers are required to update their Investment Plans with their funding commitment projections under the Rental Housing component on a quarterly basis. Please refer to Page 7 for reporting requirements and due dates. Proponents will be required to report accordingly to their Service Manager.

Quarterly updates to the Investment Plan will be supplemented by regular milestone updates through TPON along with progress reports to the Ministry contacts describing project progress and potential issues of concern that might delay or jeopardize the project.

Service Managers will be required to submit documentation in TPON as follows:

- Within 120 days after signed Contribution Agreement: first available Building Permit, Confirmation of Construction Start
- At completion of structural framing: confirmation of structural framing through building inspection report
- An audited capital cost statement within six months following the initial occupancy date, or such additional time acceptable to the Ministry

Service Managers are also required to complete and file with the Ministry an Initial Occupancy Report once projects are completed and occupied, and Annual Occupancy Reports for the first three years after project completion. After the first three years, filing of the Annual Occupancy Report is not required although the Service Manager is still required to complete the Annual Occupancy Report and may be requested to submit the report periodically.

This reporting ensures compliance with the provisions of the CMHC-Ontario Bilateral Agreement under the National Housing Strategy and other established program requirements. All reports and updates are to be submitted through TPON, where possible.

**SCHEDULE “H”
FUNDING SCHEDULE FOR OPHI LOAN**

1. Government Funding Progress Payments

1.1 OPHI LOAN

Construction Milestones	Progress Payments
Construction Start with First Available Permit	50 per cent
Structural Framing Completed	40 per cent
Occupancy Certificate	10 per cent
Holdback	Released 60 days after lien publication

No funds shall flow if an order has been issued under subsection 12(2) of the Building Code Act and there has been no compliance with the order.

2. Disbursement of the Loan

2.1 Payment – OPHI Loan

- (a) The City shall make advances of the OPHI Loan at the following times upon at least ten (10) days prior notice to the City, provided that the conditions set forth below have been satisfied:
 - (i) an amount equal to 50% of the OPHI Loan at first available permit, which amount shall be paid to the Proponent's solicitor in trust for payment in its entirety only in respect of Development Activities provided the funds are, in the opinion of the City properly secured;
 - (ii) an amount equal to 40% of the OPHI Loan, at completion of structural framing, which amount shall be paid to the Proponent's solicitor in trust for payment in its entirety only in respect of Development Activities provided the funds are, in the opinion of the City, properly secured; and
 - (iii) the balance of the OPHI Loan upon Occupancy, as evidenced by the Occupancy Certificate as provided by the City, which amount shall be paid to the Proponent's solicitor in trust for payment in its entirety only in respect of Development Activities provided the funds are, in the opinion of the City, properly secured.
- (b) the City shall not be liable to suppliers, contractors, sub-contractors, craftsmen, labourers or others for goods and services delivered by them in or upon the Property, or employed in the construction of the Improvements, or for any debts or claims accruing to any of the parties against the Proponent or against the Property;
- (c) it is distinctly understood and agreed by the parties hereto that there is no contractual relationship either express or implied, between the City and any supplier, contractor, sub- contractor, craftsman, labourer or person supplying any work, services or material to the Improvements. The Proponent is not, and shall not be, the agent of the City for any purpose. There shall be no third-party beneficiary of this Agreement, express or implied.
- (d) Should the Minister not allocate funding for this Project, refuse to provide any funds under the Ontario Priorities Housing Initiative Program for this Project, fail to provide installments of said funds or adjust the amount of said funds, the City shall have no liability to the Proponent for said

funding and it shall not be obligated to advance the OPHI Loan

3. CONDITIONS

3.1 The obligation of the City to make the payment of the OPHI Loan is conditional upon prior compliance with such of the following conditions precedent as are not previously waived in writing by the City:

- (a) the Proponent shall have submitted the Project budget and Project Construction Schedule to the City in a form and content satisfactory to the City;
- (b) the Proponent having received conditional commitment or mortgage commitment;
- (c) the Proponent shall have delivered to the City evidence satisfactory to the City that the Proponent's equity has been paid, delivered or pledged;
- (d) the City shall have received the following documents and materials each of which shall be satisfactory in substance and in form to the City:
 - (i) certificates of incumbency of the persons signing on behalf of the Proponent;
 - (ii) certified copies of such corporate documents of the Proponent as the City may reasonably require including, without limitation, letters patent, articles of incorporation, certified abstracts from by-laws, and certified copies of relevant directors' resolutions;
 - (iii) an opinion of the Proponent's counsel addressed to the City Program and Business Lead and the City Solicitor's Office,

- A) that the Proponent:
- (a) is a body corporate, duly incorporated and properly organized and validly existing as a corporation under the laws of the jurisdiction in which it was incorporated;
 - (b) is qualified to do business in the Province of Ontario;
 - (c) has all the necessary corporate power and authority to carry on the business to be conducted by it in respect of the development, operation and management of the Project; and
 - (d) has all the necessary corporate power and authority to enter into and perform its obligations under this Agreement and each of the Security Documents to which it is a party in accordance with their respective terms;
- B) that this Agreement to which the Proponent is a party have been duly and validly authorized, executed and delivered by the Proponent and are valid and binding obligations of the Proponent enforceable in accordance with their respective terms;
- C) that neither the execution and delivery by the Proponent of this Agreement to which it is a party nor compliance by the Proponent with any of their respective terms will contravene the charter documents or by-laws of the Proponent or, to the best of such counsel's knowledge, after having made due enquiry of the Proponent, contravene or result in a default under any other agreement or instrument by which Proponent may be bound or affected;
- D) that, to the best of such counsel's knowledge, without having made independent enquiry, there are no actions or proceedings pending or threatened against the Proponent, before any court or administrative agency;
- E) that the Proponent has or will have good and marketable title to the Property, subject only to Permitted Encumbrances, and that the Project complies in all respects with and is not in contravention of any relevant municipal, provincial or federal law, by-law, statute, ordinance or regulation;
- F) that no instrument containing a charge on any of the undertaking, property or assets of the Proponent, or notice thereof, has been registered in the Province of Ontario other than Permitted Encumbrances;
- G) that this Agreement and financing statements, notices and other documents relative thereto have been duly registered or filed in all places in Ontario where such registration or filing is required by law or is necessary to make effective, preserve and protect the security which they purport to create; and
- H) as to such other matters as the City or its counsel may reasonably request.

**SCHEDULE “J”
INITIAL OCCUPANCY REPORT – PART 1**

PROPONENT’S INITIAL OCCUPANCY REPORT
OPHI - Rental Housing Component

A. Project Information

Reference No.	
Project Name	
Project Address	
Proponent Name	
Occupancy Date	
Contribution Agreement Expiry Date	

B. Unit Details

Target Client	Unit Type	Household Type	OPHI Units (A)	# of RS	# of SS	Non-OPHI Units (B)	Total Units (A+B)
	Bachelor						
	1 BR						
	2 BR						
	3 BR						
	Others (specify)						
	Total						

RS: Rent Supplements

SS: SIF-- Support Services

C. Depth of Affordability: Rents at Occupancy

Unit Type	Unit Size	Number of Units (A)	Actual Rent to be charged per month (B)	CMHC Average Market Rent (AMR – 20XX) or Alternate AMR (C)	Actual Project Rents by Unit Type (D)=(A)X(B)	Project Rents as per CMHC AMR or Alternate AMR (E)=(A)X(C)
Bachelor						
1 BR						
2 BR						
3 BR						
Others (specify)						
TOTAL						

Notes:

- Actual Rent is inclusive of Rent Supplements received by the Proponent.
- Alternate AMR examples include: modified Ontario Works Shelter Allowance; Ministry-approved alternate.

Weighted Average Rents	Project Weighted Average Rent Total of (D)÷Total of (A) =	CMHC or Alternate Weighted Average Rent Total of (E)÷Total of (A) =
Depth of Affordability	(Project Weighted Average Rent ÷ CMHC (or Alternate) Weighted Average Rent) x100 =	

A. Source of Alternate AMR (if an alternate AMR is being used)

B. Rationale (if Depth of Affordability is greater than 80% of CMHC AMR (or Alternate))

C. Project Certification

I certify, to the best of my knowledge, that the information provided in Sections B and C above is true and correct. I hereby authorize the _____ [insert name of Service Manager] to review the rent roll from appropriate sources(s) if deemed necessary.

NOTE: The IOR Ontario is required to be submitted by the Proponent to the City, for approval, before receiving final payment. The "permitted rents" Page **62** of **80**

must be consistent with the formula for determining the initial rents, set out in Schedule "B" Rental Protocol.

Signature

Print Name

Date

Position

Submitted by _____ [insert name of Service Manager]

Signature

Print Name

Date

Position

SCHEDULE "I"
INITIAL OCCUPANCY REPORT – PART 2

CITY INITIAL OCCUPANCY REPORT

A. Project Information

Initial Occupancy	
Contribution Agreement Expiry Date	
Project Name	
Project Address	
Proponent	
Contact	
Mailing Address	

B. Household Income of All Tenants

Unit Number	Unit Type	Tenant Name(s) and Dependent(s)	Total Gross Household Income	Tenant Move-In Date

C. Project Certification, Consent and Solemn Declaration

I hereby declare and certify the following statements to be true and correct:

1. To the best of my knowledge, all information provided in Section B of this report is true and correct and matches financial statements and rent rolls.
2. All new tenants have been appropriately screened for program eligibility and unit occupancy standards in accordance with the Contribution Agreement and Residential Tenancies Act prior to signing of leases.
3. No additional fees, charges, or lease costs are required of tenants outside of the requirements of the Contribution Agreement.
4. Any increases in rental rates have been done so, no more than one time annually in accordance with the practices and limitations as set out in the Contribution Agreement.
5. I am aware of the controls and remedies outlined within the Contribution Agreement related to compliance with the agreement and affordable housing program.

Consent:

I understand that, in accordance with the Contribution Agreement, the City or its agents may review the rent roll, financial statements, and verification of initial tenant eligibility which has been retained and will be made available for review purposes.

Solemn Declaration:

I declare that all the information on these forms is true to the best of my knowledge and that no information has been withheld or omitted. I make this declaration knowing that it is of the same force and effect as if made under oath by virtue of the *Canada Evidence Act*.

Date: _____

Proponent Name Position Company/Organization

NOTE: This Schedule is required to be submitted by the Proponent to the City for approval, before receiving the final Federal/Provincial/City payment. The “permitted rents” must be consistent with the formula for determining the initial rents, set out in Schedule “B” Rental Protocol. This form is subject to change without notice.

Proponents are required to attach current income verification documentation for each new tenant to this report. Income verification documentation will include the most recent Notice of Assessment or other such documentation acceptable to the City. Proponents are not required or expected to check incomes for approved tenants once they have taken possession of their units.

**SCHEDULE “J”
ANNUAL OCCUPANCY REPORT – PART 1**

PROPONENT’S INITIAL OCCUPANCY REPORT

OPHI - Rental Housing Component

A. Project Information

Reference No.	
Project Name	
Project Address	
Proponent Name	
Occupancy Date	
Contribution Agreement Expiry Date	

B. Unit Details

Target Client	Unit Type	Household Type	OPHI Units (A)	# of RS	# of SS	Non-OPHI Units (B)	Total Units (A+B)
	Bachelor						
	1 BR						
	2 BR						
	3 BR						
	Others (specify)						
	Total						

Notes:

RS: Rent Supplements **SS:** Support Service

C. Actual Rents at Year End

Unit Type	OPHI Funded Units	Previous Year 20XX		Current Year 20XX			Rationale (If D>B)
		Actual Rent per Unit per Month (A)	RTA Permitted Increase per Unit per Month X % (specify) (B)	Actual Rent per Unit per Month (C)	Rent Increase (D) = (C)-(A)	(E) CMHC or Alternate AMR	
Bachelor							
1 BR							
2 BR							
3 BR							
4 BR							
Other (specify)							
TOTAL							

D. Depth of Affordability: Rents during year of reporting

Unit Type	Unit Size	Number of Units (A)	Actual Rent to be charged per month (B)	CMHC Average Market Rent (AMR – 20XX) or Alternate AMR (C)	Actual Project Rents by Unit Type (D)=(A)X(B)	Project Rents as per CMHC AMR or Alternate AMR (E)=(A)X(C)
Bachelor						
1 BR						
2 BR						
3 BR						
Others (specify)						
TOTAL						

Notes:

1. Actual Rent is inclusive of Rent Supplements received by the Proponent.
2. Alternate AMR examples include: modified Ontario Works Shelter Allowance; Ministry-approved alternate.

Weighted Average Rents	Project Weighted Average Rent Total of (D)÷Total of (A) =	CMHC or Alternate Weighted Average Rent Total of (E)÷Total of (A) =
Depth of Affordability	(Project Weighted Average Rent ÷ CMHC (or Alternate) Weighted Average Rent) x100 =	

Note: Depth of Affordability cannot be greater than 80% of CMHC AMR or Alternate without the approval of the Service Manager.

E. Rationale (if Depth of Affordability is greater than 80% of CMHC AMR (or Alternate))

F. Project Certification

I certify, to the best of my knowledge, that the information provided in Sections B and C above is true and correct. I hereby authorize the _____[insert name of Service Manager] to review the rent roll from appropriate sources(s) if deemed necessary.

Signature

Date

Print Name

Position

Submitted by _____[insert name of Service Manager]

Signature

Date

Print Name

Position

**SCHEDULE “J”
ANNUAL OCCUPANCY REPORT – PART 2**

CITY INITIAL OCCUPANCY REPORT

A. Project Information

Reporting Period	
Initial Occupancy	
Contribution Agreement Expiry Date	
Project Name	
Project Address	
Proponent	
Contact	
Mailing Address	

B. Household Income of New Tenants

Unit Number	Unit Type	Tenant Name(s) and Dependent(s)	Total Gross Household Income	Tenant Move-In Date

C. Project Certification, Consent and Solemn Declaration

I hereby declare and certify the following statements to be true and correct:

1. To the best of my knowledge, all information provided in Section B of this report is true and correct and matches financial statements and rent rolls.
2. All new tenants have been appropriately screened for program eligibility and unit occupancy standards in accordance with the Contribution Agreement and Residential Tenancies Act prior to signing of leases.
3. No additional fees, charges, or lease costs are required of tenants outside of the requirements of the Contribution Agreement.
4. Any increases in rental rates have been done so, no more than one time annually in accordance with the practices and limitations as set out in the Contribution Agreement.
5. I am aware of the controls and remedies outlined within the Contribution Agreement related to compliance with the agreement and affordable housing program.

Consent:

I understand that, in accordance with the Contribution Agreement, the City or its agents may review the rent roll, financial statements, and verification of initial tenant eligibility which has been retained and will be made available for review purposes.

Solemn Declaration:

I declare that all the information on these forms is true to the best of my knowledge and that no information has been withheld or omitted. I make this declaration knowing that it is of the same force and effect as if made under oath by virtue of the *Canada Evidence Act*.

Date: _____

Proponent
Name Position
Company/Organization

NOTE: The “permitted rents” must be consistent with the formula for determining the initial rents, set out in Schedule "B" Rental Protocol. This form is subject to change without notice.

Proponents are required to attach current income verification documentation for each new tenant to this report. Income verification documentation will include the most recent Notice of Assessment or other such documentation acceptable to the City. Proponents are not required or expected to check incomes for approved tenants once they have taken possession of their units.

SCHEDULE “K”
CANADIAN ENVIRONMENTAL ASSESSMENT ACT CONSIDERATIONS

The Proponent confirms that the project complies with the Canadian Environmental Assessment Act (CEAA) 2012 as per CMHC requirements:

1. The project will not be carried out on federal lands*;
2. The project has not been specifically identified by the Minister of the Environment in an Order Designating Physical Activities.

*NOTE: “federal lands” includes lands that belong to, or that may be disposed of by Her Majesty in right of Canada but does not include lands under the administration and control of the Commissioner of Yukon, the Northwest Territories or Nunavut.

**SCHEDULE “L”
DEVELOPMENT SCHEDULE**

Purchase Property	MONTH 20YY
Site Plan Approval	MONTH 20YY
Building Permit	MONTH 20YY
Construction Start	MONTH 20YY
Foundation Completed	MONTH 20YY
Structural Framing Completed	MONTH 20YY
Substantial Completion	MONTH 20YY
Lien Publication	MONTH 20YY
First Occupancy	MONTH 20YY

Capital Audit Report – Must be submitted within 90 days of construction completion.

SCHEDULE "M"
CONDITIONAL LETTER OF COMMITMENT FROM THE PROVINCE

SCHEDULE "N"
CONFIRMATION OF EMPLOYMENT APPRENTICES

OPHI – Rental Housing Component

Required for Each Rental Housing Project

This is to confirm that the affordable housing project located at 1958 Duluth Crescent – Block 5 Building A, London has employed a total of _____[number] apprentices throughout the development and construction of the project.

The apprentices employed during project construction have received training in the following trades:

- 1.
- 2.
- 3.
- 4.

The following initiatives/activities were used to promote or support apprentices in the Project:

- 1.
- 2.
- 3.
- 4.

Wastell Development Inc. agrees to provide appropriate documentation in support of the above information.

I declare that the above information is true and complete.

Signature

Name:
Position:
Wastell Development Inc.

Date at London this _____ day of _____ 20YY.

SCHEDULE “O” ENERGY EFFICIENCY AND BUILDING DESIGN PROJECT DETAILS

The project will include the following energy efficient features:

1. Additional insulation in the walls and roof to exceed the 2015 building code requirement
2. Individual air conditioning in each unit
3. Use of LED lighting throughout the building
4. Low flow shower heads and faucets
5. Water saver flush toilets
6. Low E Energy Star rated windows and Energy Star rated doors
7. Enersave Energy Star rated appliances
8. Motion sensors on lighting in common areas
9. Ceiling fan/light combination in dining rooms
10. Insulation of pipes on hot water system
11. High efficiency on-demand boiler for hot water and heating
12. Energy Recover Ventilation for corridors
13. Rain-storm water collection from roof top
14. Solar hot water preheating rough in
15. Blinds on all windows
16. Programmable thermostats

A copy of the complete Energy Modelling report for the CMHC Affordable Housing Fund application and underwriting be provided to the City once available.

SCHEDULE "P"

PROTOCOL FOR NON-COMPLIANCE

OPHI – Rental Housing Component

1. BACKGROUND

- 1.1 This guideline addresses the obligations to indemnify any obligations of OPHI participants to recover funding from affordable housing Projects which may encounter difficulties within the relationships described below:
- (a) Province - Canada Mortgage and Housing Corporation ("CMHC");
 - (b) Service Manager ("SM") - Province;
 - (c) Proponent - Service Manager; and
 - (d) Proponent - Province.
- 1.2 While this Schedule pertains to the Rental Housing Component of the OPHI the same set of underlying principles and requirements could accommodate other program components with minor adjustments.
- 1.3 The undertakings and commitments contained in this Schedule are consistent with and do not supersede any agreements between the Governments of Canada and Ontario as per the OPHI Agreement.

2. CONSULTATION

- 2.1 When the Service Manager becomes aware of a failure of a Proponent to observe or perform a material condition in the Contribution Agreement, the Service Manger shall notify the Province, which shall, in turn, notify CMHC. The Province and the SM shall each appoint one person to an ad hoc committee for the purpose of assembling information relating to the Project in difficulty and determining a course of action for rectifying the difficulty. CMHC shall be invited to participate and will determine the extent of its involvement on the committee. Terms of reference for the ad hoc committee shall be developed and agreed to by all three parties.

3. BEST EFFORTS

- 3.1 In determining what course of action may be undertaken to rectify a Project in difficulty, the parties shall use their best efforts to work together co-operatively with a view to maintaining, to the greatest extent possible in the circumstances, the affordability of the rents for the Project as determined by the Contribution Agreement. The parties acknowledge that the interests of the tenants shall be considered in determining what course of action may be most suitable for a project in difficulty.

4. ADVANCE NOTICE

- 4.1 Neither CMHC, the Province or the SM shall substantially modify the terms of any project- specific agreement, including the Contribution Agreement, or the advance of funds or the security documentation associated with the advance of funds, with the exception of a CMHC insured first mortgage, without providing written notice to the other parties and a reasonable opportunity for the other parties address the implications of such action,

- 4.2 The obligation to indemnify or the distribution of a recovery of funds from a project in difficulty will require the Service Manager and/or Proponent to exhaust all reasonable opportunities to seek recovery, which efforts shall include but shall not be limited to resorting to legal action to defend third party claims, seeking indemnification from insurance policies, if any, that may afford coverage for a particular loss and/or recovering funds from bonding companies or other third parties who, at law, may be responsible for the losses of a project in difficulty.

5. INDEMNITY

5.1 Province - CMHC

- (a) As per the OPHI Agreement, Ontario will indemnify CMHC as the result of third party "claims" arising out of the implementation of the Agreement. "Claims" is defined as any legal action against CMHC in connection with the OPHI Agreement.
- (b) Federal-Provincial indemnity provisions on Project Development Funding and environmental claims remain as per the OPHI Agreement.
- (c) Where CMHC has insured a proponent" first mortgage and a default occurs on the insured mortgage, the Province is not required to indemnify CMHC for any losses related to the mortgage insurance as per the OPHI Agreement.
- (d) The OPHI "capital" funds and the circumstances dealing with the recovery of these funds are dealt with in subsequent sections of these guidelines.

5.2 SM - Province

- (a) It is proposed that the SM indemnify the Province for any third-party claims against the Province, unless the claims are in any way, directly or indirectly, attributable to the negligence, bad faith or willful misconduct of the Province.
- (b) Subject to the preceding paragraph, during the construction phase of a project, it is proposed that the Service Manager indemnify the Province for 100% of federal OPHI project funding, as a result of any third-party claims against the Province, subject to certain exceptions as per the OPHI Agreement, including:
 - (i) Maximum liability is limited to the total amount of federal-provincial funding advanced at the time of the loss-giving rise to the claim for indemnification;
 - (ii) 50% share of provincial liability for losses in relation to Project Development Funding (i.e. 25% of the total claim);
 - (iii) 50% share of provincial liability for losses as a result of environmental and pollution claims (i.e. 25% of the total claim);
 - (iv) No identification for losses covered by CMHC or other insurance.
- (c) Following completion of construction, it is proposed that the Service Manager will indemnify the province for any third-party claims on a 50% basis for CMHC, with respect to the federal portion of OPHI funding, and on a 100% basis for the Province, subject to same exceptions as indicated above.

5.3 Proponent - SM

- (a) The proponent would be required to indemnify the province for any claims against the Province or CMHC in accordance with the Contribution Agreement.
- (b) The SM should also request full indemnification from the proponent for any claims against the SM.

5.4 Proponent - Province

- (a) Where there is a direct relationship between the Province and a proponent, the Province will require 100% indemnity of CMHC and provincial funds paid in the event of a claim against the province or CMHC.
- (b) Indemnification of CMHC will be required during the construction and occupancy period of a project. Indemnification of the province will be required throughout the period during which provincial affordability payments are made.

6. RECOVERY OF FUNDS

6.1 Under the OPHI a number of circumstances could arise which could make a project "non-compliant". Examples include:

- (a) Construction Failures - increased construction costs, bankruptcy;
- (b) Environmental considerations - with the exception of those identified and record & in advance of an OPHI funding commitment;
- (c) Program compliance violations - project fails to remain affordable or does not maintain its affordability target for the full 50 years, or funds are misused.

6.2 Province - CMHC

- (a) CMHC would not expect full repayment of federal capital by the Province if the province confirms that "best efforts" were made to collect the funds.
- (b) Best efforts would involve adherence by the SM to the "risk sharing protocols" in order to minimize occurrence of failure. Furthermore, the parties will need to explore all available remedies with SMs, proponents and CMHC, and implement the best remedy to the extent possible.
- (c) If efforts lead to a recovery of capital funding, CMHC would expect a repayment of "a pro rata portion" of the federal funding. It is reasonable to propose that all the funding partners share in any proceeds recovered, in proportion to their contributions.
- (d) A sliding scale for CMHC forgiveness is set at 5% per year over 20 years. Under certain circumstances, the Province will share this forgiveness with SMs and proponents, otherwise the Province will collect these funds for recycling in other projects.
- (e) Federal funding could either be repaid by the Service Manager to the Province and recycled in

new commitments before April 30, 2020 or refunded directly to CMHC after this date.

- (f) In the event that auditors discover misuse of federal funding as per the OPHI Agreement, CMHC would expect a refund from the Province where applicable. The amount owing could be reduced based on earned forgiveness of the principal amount during the period of project compliance.

6.3 SM - Province

- (a) In the event a project ceases to be an OPHI project for reasons related to negligence, misuse or non-compliance, the Province will expect to be repaid for provincial contributions advanced during the period of non-compliance.
- (b) In the event a project ceases to be compliant due to the negligence of the SM, the Province would expect the SM to repay the Province 100% of CMHC funds, less any earned forgiveness of the principal amount, during the period of project compliance.

6.4 Proponent - SM

- (a) It is required that the SM would adopt a similar position if a project terminates under reasonable circumstances. That is, best efforts can be made to recover government contributions, but if there were no proceeds available, repayment would not be expected.
- (b) In situations of non-compliance due to misuse or negligence, the SM is expected to take remedies available to recover government contributions.

6.5 Proponent - Province

- (a) In situations of non-compliance due to misuse or negligence, the province would expect 100% repayment of federal and provincial funds from the proponent.
- (b) If a project ceases to operate as an OPHI project, under reasonable circumstances, the provincial affordability payment would end, and best efforts will be made to recover the provincial contributions paid during any period of non-compliance. In the event no proceeds were available, repayment would not be expected.

**SCHEDULE “Q”
CONFIRMATION OF CONSTRUCTION START**

OPHI – Rental Housing Component

This is to confirm that the 1958 Duluth Crescent – Block 5 Building A project in the City of London commenced construction on (City to insert date).

The start of construction for this project is within one hundred twenty (120) days of the date of the project’s Contribution Agreement, which was signed on (City to insert date).

I declare that the above information is true and complete.

City Employee Name:

Title:

Dated at London this DD of MM, YYYY