

Bill No. 29  
2017

By-law No. A.- \_\_\_\_\_

A By-law to approve the Housing Provider Contribution Agreement for the Social Housing Improvement Program; and to authorize the Managing Director of Housing, Social Services and Dearness Home to execute the Agreement.

WHEREAS section 2 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under this Act and many other Acts for the purpose of providing good government with respect to those matters;

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, 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 section 10 of the *Municipal Act, 2001* provides that the City may provide any service or thing that the City considers necessary or desirable for the public, and may pass by-laws respecting same, and respecting economic, social and environmental well-being of the City, and the health, safety and well-being of persons;

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

1. The Housing Provider Contribution Agreement substantially in the form attached as "Appendix B" to this By-law and satisfactory to the City Solicitor, between the City and such Housing Providers who have been selected for funding towards the 2016 Social Housing Improvement Program in accordance with the Service Manager Agreement between the Her Majesty the Queen in the Right of Ontario as represented by the Ministry of Municipal Affairs and Housing and the Corporation of the City of London, is hereby approved.
2. The Managing Director of Housing, Social Services and Dearness Home or his/her designate be delegated authority to execute the Housing Provider Contribution Agreement approved in paragraph 1, above.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on December 19, 2016

Matt Brown  
Mayor

Catharine Saunders  
City Clerk

First reading – December 19, 2016  
Second reading – December 19, 2016  
Third reading – December 19, 2016

**“Appendix B”**

**HOUSING PROVIDER CONTRIBUTION AGREEMENT  
SOCIAL HOUSING IMPROVEMENT PROGRAM**

This Agreement made the                      day of                      **[insert year]**.

**BETWEEN:**

**THE CORPORATION OF THE CITY OF LONDON**

(hereinafter referred to as the “**Service Manager**”)

**OF THE FIRST PART;**

- and -

**[INSERT NAME OF HOUSING PROVIDER]**

(hereinafter referred to as the “**Housing Provider**”)

**OF THE SECOND PART;**

**RECITALS:**

**WHEREAS** the Province of Ontario has designated the City of London to allocate and administer funding pursuant to the SHIP (“the **Program**”);

**AND WHEREAS** the Housing Provider is an Eligible Housing Provider (as defined below);

**AND WHEREAS** the Housing Provider is the registered owner of the residential accommodation known municipally as                      (the “**Housing Project**”);

**AND WHEREAS** the City of London has agreed to provide to the Housing Provider the Funds, up to                      net of HST rebate (the “**Funds**”) for the purposes of carrying out renovation or retrofit at the Housing Project as more particularly set out in **Schedule “A”** attached hereto (the “**Work**”), in accordance with the terms and conditions specified in this Agreement;

NOW THEREFORE, the Service Manager and the Housing Provider agree with each other as follows:

**1. INTERPRETATION**

1.1 In this Agreement, unless the context requires otherwise, the following terms have the meanings set out in this Section.

- “**Agreement**” means this agreement entered into between the City and the Housing Provider and includes all of the schedules listed in Section 1.2 and any amending agreement entered into;
- “**Affordable**” means rented at the adjusted market rent as determined solely by the Service Manager from time to time as confirmed in Schedule “B”
- “**Claim**” has meaning ascribed to it in Schedule “B”;
- “**Contract**” has meaning ascribed to it in Section “4 (b)”
- “**Date of Commitment**” means the date of a Contribution Agreement that has been signed by both parties;
- “**Eligible Activities and Costs**” means a social housing project that;

- (a) as of April 1, 2016, the Housing Project was administered within a transferred housing program under the HSA;
  - (b) is within a transferred housing program under the HSA at the time of the commitment and use of the SHIP Funds for the Housing Project;
  - (c) must remain Affordable for the Ten (10) Year Affordability Period, including a minimum of five (5) years as social housing under the HSA, regardless of the end dates of any operating agreements and/or mortgage maturation; and
  - (d) meets such other criteria as the Service Manager may require.
- **“Eligible Housing Provider”** means a housing provider that;
  - (a) owns and operates an Eligible Housing Project;
  - (b) is a local housing corporation, a non-profit corporation or a non-profit housing co- operative corporation; and
  - (c) meets such other criteria as the Service Manager may require.
- **“Effective Date”** has meaning ascribed to it as set out on Page 1;
- **“Eligible Costs”** has meaning ascribed to it as set out in Schedule “B”
- **“Eligible Soft Costs”** means soft costs that include Work related expenses such as professional services (e.g. architects, engineers) preparation of tender documents, charges and fees required for municipal approvals (e.g. building permit fees), building condition assessments and energy efficient audits;
- **“Event of Default”** has meaning ascribed to it as set out in Section 18;
- **“Force majeure”** has the meaning prescribed to it in Section 14;
- **“Funds”** has meaning ascribed to it as set out in the recitals;
- **“Holdback”** has meaning ascribed to it as set out in Schedule “B”;
- **“Housing Project”** has meaning ascribed to it as set out in the recitals;
- **“HSA”** means the *Housing Services Act, 2011*, and regulations made under it, as amended from time to time;
- **“HST”** means Harmonized Sales Tax;
- **“Ineligible Costs”** includes, but is not limited to the following (in addition to any other costs identified or described as ineligible in this Agreement:
  - (a) costs for ongoing or routine maintenance and repairs;
  - (b) construction of new social housing Units outside the social housing portfolio;
  - (c) any travel, food or hospitality costs;
  - (d) any costs related to developing a business case, funding proposal or other activity with a similar aim;
  - (e) any costs related to activities undertaken with the actual or perceived intention of lobbying;
  - (f) any costs not directly related to the Program;
  - (g) any portion of the costs of Work that are covered by incentives, subsidies or other funding received for Work from external parties;
  - (h) expenditures submitted for claim or request for payment received after February 28, 2019;
  - (i) the portion of expenditures for which a tax credit is received or eligible; and
  - (j) any costs which are an inappropriate use of public funds in the sole opinion of the Service Manager.
- **“Invoice”** has meaning ascribed to it as set out in Schedule “B”;
- **“Parties”** means the Service Manager and the Housing Provider and **“Party”** means either of them, as the context may require;

- **“Project Operating Agreement”** means an agreement between the Housing Provider and either Canada Housing and Mortgage Corporation, the federal government or any federal or provincial Ministry or affiliated agency obliging the Housing Provider to operate the Housing Project in accordance with a prescribed housing program under either federal or provincial law;
- **“Program”** has meaning ascribed to it as set out in the recitals;
- **“Report”** means any report required under Section 16.1 (e) and Schedule “B” of this Agreement;
- **“Request for Payment”** has meaning ascribed to it as set out in Schedule “B”;
- **“SHIP”** means the Social Housing Improvement Program;
- **“Ten Year Affordability Period”** means, for each participating Eligible Housing Project, the ten (10) year period following completion of its approved Eligible Work;
- **“Unit”** means a self-contained residential dwelling and/or unit within a multi-bedroom congregate living arrangement;
- **“Vendor”** has meaning ascribed to it as set out in Schedule “B”;
- **“Work”** has meaning ascribed to it as set out in the recitals.

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

Schedule A – The Work

Schedule B – Funding / Budget Items/ Eligible Expenditures

Schedule C – Bid / Quote Summary Form

1.3 In the event of a conflict or inconsistency between the provisions of this Agreement and the provisions of 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 stated otherwise.

## 2. TERM OF THIS AGREEMENT

2.1 This Agreement will commence on the Effective Date notwithstanding the respective Parties signature dates and will remain in full force and effect until the performance in full of all the Housing Provider’s obligations under this Agreement.

## 3. THE WORK

The Housing Provider shall:

- (a) forthwith proceed to carry out the Work, as set out in Schedule “A”, at the Housing Project in a good and workmanlike manner and with proper material according to the plans and specifications to be submitted to and approved by the Service Manager, and will then proceed continuously and vigorously with the Work. The Service Manager reserves the right to approve all aspects of the Work prior to its initiation and will have no liability for payment of any Work, or a portion thereof, unless so pre-approved in writing.
- (b) pay for all material used or labour employed on or about the Work and protect the land, building and premises located at the Housing Project from construction liens; and it will at all times produce and show to the Service Manager on demand the bills, vouchers and contracts for the materials used and labour employed in and about the Work.
- (c) if the Work includes a redevelopment/regeneration project then at least the previous number of Affordable Units shall be maintained. If the Work includes redevelopment/regeneration then the Parties understand and agree that regeneration options must be considered if it assists in promoting long term financial

viability, does not create operating deficits and is consistent with the SHIP program guidelines.

- (d) commence the Work within 3 months of the Effective Date and complete the Work within 2 years from the Effective Date.

#### **4. APPROVAL OF THE SERVICE MANAGER**

- (a) The Housing Provider will obtain multiple quotes or bids for the Work in accordance with a competitive process and will follow such tendering procedures and provide such documentation regarding the capital cost/expenses as may be required by the Service Manager. As a condition of eligibility for the Funds, the Housing Provider will provide a "Bid Summary Form" regarding the Work to the Service Manager in the form attached hereto as Schedule "C". The Service Manager will have the right to review and comment on Schedule "C" within a reasonable period of time. No Work will be awarded without the prior written consent of the Service Manager. At the request of the Service Manager, the Housing Provider will also provide copies of all bids or quotes received for the Work.
- (b) The Housing Provider will ensure that all aspects of the Work are included in a written contract (or multiple in the event the Work is undertaken by more than one party), (the "Contract") that will be in writing with copies to be submitted to the Service Manager prior to the release of Funds.

#### **5. PRE-CONDITION REGARDING FUNDING**

The Service Managers obligation to provide funds to the Housing Provider under this Agreement is conditional upon approval of the Work by the Ministry pursuant to the Program.

#### **6. CONFLICT OF INTEREST**

- (a) The Housing Provider will use the Funds and any interest earned without an actual, potential or perceived conflict of interest.
- (b) For the purposes of this Section, a conflict of interest includes any circumstances where: (i) the Housing Provider; or (ii) any person who has the capacity to influence the Housing Provider's decisions, has outside commitments, relationships or financial interests that could, or could be seen to, interfere with the Housing Provider's objective, unbiased and impartial judgment relating to the Program, the Work, and/or the use of the Funds.
- (c) The Housing Provider will: (i) disclose to the Service Manager, without delay, any situation that a reasonable person would interpret as an actual, potential or perceived conflict of interest; and (ii) comply with any terms and conditions that the Service Manager may prescribe as a result of the disclosure.
- (d) For greater certainty, the parties acknowledge and agree that the Housing Provider will be prohibited from utilizing third parties that are directly related to, or affiliated with, employees or board members of the Housing Provider for the purpose of carrying out the Work.

#### **7. FINANCIAL RECORDS**

With the exception of financial records related to a social housing mortgage that may apply to the Housing Project, the Housing Provider will prepare and maintain its financial records in accordance with Generally Accepted Accounting Principles (GAAP).

#### **8. AUDITS AND REVIEWS**

- (a) Upon twenty-four (24) hours notice to the Housing Provider, the Service Manager, its representatives and/or an independent auditor identified by the Service Manager will, upon request, be entitled to receive and/or enter onto the Housing Provider's Housing Project or any other location where records are stored to examine copy, remove any copies, and/or conduct an audit or investigation of any relevant documentation in connection with Housing Project and the Work funded under the Program.
- (b) To assist in respect of the Service Manager's rights set out in this Section, the

Housing Provider will disclosed any information requested by the Service Manager, its authorized representative or an independent auditor identified by the Service Manager, and will do so in the form requested by the Service Manager, its authorized representatives or an independent auditor identified by the Service Manager, as the case may be.

- (c) No provision of this Agreement will be construed so as to give the Service Manager any control whatsoever over the Housing Provider's records.

## **9. INSPECT WORK**

- (a) The Service Manager, during the Work, will have the right to periodically enter onto the Housing Project to inspect the progress of the Work to verify that the Work completed complies with the Contract.

## **10. CONSTRUCTION LIENS**

- (a) The Housing Provider will immediately notify the Service Manager in writing if any construction lien is registered. The Housing Provider and the Service Manager will consult fully with respect to any construction lien. After such consultation, the Housing Provider will follow any written directions from the Service Manager with respect to dealing with the construction lien.

## **11. THE FUNDS**

- (a) The Service Manager will provide the Funds to the Housing Provider to be used solely for the purpose of paying all Eligible Work and Eligible Soft Costs necessary to complete the Work at the Housing Project, upon the terms and conditions specified herein. The Housing Provider acknowledges and understands that the Service Manager will not be obliged to provide Funds for Ineligible Costs.
- (b) The Funds will not be used for any portion of the Work that is covered by any subsidies, incentives or other funding received for the Work through other sources. If any subsidies, incentives or other funding are used for funded Work through other sources, then the Housing Provider will promptly return/refund to the Service Manager the equivalent amount of the subsidy, incentive or other funding.
- (c) The Housing Provider will use the Funds and any interest on the Funds solely for the purpose of the approved and completed Work.
- (d) The Housing Provider agrees that the Funds will be deemed sufficient to complete the Work, including any applicable taxes, and that no further monies will be provided to the Housing Provider by the Service Manager in connection with the Work. The Service Manager's obligation to provide financial assistance to the Housing Provider only extends to those amounts properly documented in a Contract and a subsequent Invoice subject to the maximum amount of the Funds. For greater certainty, if the cost of the Work exceeds the maximum amount of Funds then the Parties understand and agree that any such cost will be the sole responsibility of the Housing Provider and the Service Manager will assume no liability in connection with any such additional cost.
- (e) The Service Manager will pay Funds to the Housing Provider to do the Work as set out in Schedule "B"
- (f) If the Work is already completed or estimated to take up to sixty (60) days to complete, then the Housing Provider will use its best efforts to submit one Request for Payment to the Service Manager. In the event the Work will take longer than sixty (60) days to complete, the Housing Provider may submit interim Requests for Payment at thirty (30) day intervals until the Work is completed.
- (g) The Housing Provider agrees that it will record and account for the receipt of the Funds on its audited financial statements for each fiscal year in which Funds are spent on the Work, by way of Auditor's note(s) or supplementary schedules(s) reporting the amount of Funds that the Housing Provider spent on the Work in each such fiscal year.
- (h) Notwithstanding any other provision herein, if there is an overpayment of Funds advanced by the Service Manager in connection with the Work performed in accordance with this Agreement and the Service Manager demands repayment of

an amount equal to such overpayment and any interest earned if not spent, then the Housing Provider will pay the amount to the Service Manager immediately unless the Service Manager directs otherwise.

- (i) The Housing Provider will immediately return any Funds and any interest on the Funds that are not committed or paid by March 31, 2019 for the Work.

## **12. INDEMNIFICATION**

- 12.1 The Housing Provider shall indemnify and hold harmless the Service Manager from and against any and all liability, injury, loss, costs, damages, expenses (including legal, expert, and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, by whomever made sustained, incurred, brought or prosecuted, in any way arising out of or in connection with the Work, or otherwise in connection with the Agreement, unless solely caused by the negligence or wilful misconduct of the Service Manager. Such indemnification shall survive the termination of this Agreement for claims arising from or out of incidents occurring during the term of this agreement.
- 12.2 The obligation to indemnify will require the Housing Provider 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.

## **13. INSURANCE AND INDEMNITY**

Throughout the term of this Agreement, the Housing Provider shall maintain commercial general liability insurance on an occurrence basis for an amount of not less than Two Million Dollars (\$2,000,000) and shall include the Service Manager as an additional insured with respect to the Housing Provider's operations and omissions relating to its obligations under this Agreement, such policy to include non-owned automobile liability, personal liability, personal injury, broad form property damage, contractual liability, owners' and contractor's protective products and completed operations, contingent employers liability, cross liability and severability of interest clauses.

The Housing Provider shall submit a completed standard Insurance Certificate (Form #0788), and shall provide the Service Manager with a minimum of thirty days' notice in advance of cancellation of such insurance.

The Service Manager reserves the right to request such higher limits of insurance or other types of policies appropriate to this Agreement as it may reasonably require.

Failure to satisfactorily meet these conditions relating to insurance shall be deemed a breach of this Agreement.

## **14. Force Majeure**

- 14.1 Subject to Section 14.3, Force Majeure means an event that:

- (a) is beyond the reasonable control of a Party; and
- (b) makes a Party's performance of its obligations under the Agreement impossible, or so impracticable as reasonably to be considered impossible in the circumstances.

- 14.2 Force Majeure includes:

- (a) infectious diseases, war, riots and civil disorder;
- (b) storm, flood, earthquake and other severely adverse weather conditions;
- (c) lawful act by a public authority; and
- (d) strikes, lockouts and other labour actions, if such events meet the test set out in Section 14.3.

- 14.3 Force Majeure shall not include:

- (a) any event that is caused by the negligence or intentional action of a Party or such Party's agents or employees; or
- (b) any event that a diligent Party could reasonably have been expected to:

- i. take into account at the time of the execution of the Agreement; and
- ii. avoid or overcome in the carrying out of its obligations under the Agreement.

14.4 The failure of either Party to fulfil any of its obligations under the Agreement shall not be considered to be a breach of, or Event of Default under, the Agreement to the extent that such failure to fulfil the obligation arose from an event of Force Majeure, if the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of the Agreement.

## 15. REPRESENTATIONS AND WARRANTIES

The Housing Provider represents and warrants to the Service Manager as follows, which representations and warranties will be deemed to be continuing representations and warranties during the entire term of this Agreement:

- (a) The Housing Provider is a corporation legally incorporated, duly organized and validly existing, and in good standing under the laws of the Province of Ontario.
- (b) The execution, delivery and performance of this Agreement is within the corporate powers and capacities of the Housing Provider and have been duly authorized by proper corporate proceedings.
- (c) There are no actions, suits or proceedings pending or to the knowledge of the Housing Provider threatened against or adversely affecting the Housing Provider in any court or before or by any federal, provincial, municipal or other governmental department, commission, board, bureau or agency, Canadian or foreign which might materially affect the financial condition of the Housing Provider or the title to the Housing Project.
- (d) No representation or warranty by the Housing Provider in this Agreement, nor any statement or certificate (including financial statements) furnished or to be furnished to the Service Manager pursuant hereto contains or will contain any untrue statement of any fact or omits or will omit to state a fact necessary to make such representation, warranty, statement or certificate not misleading.
- (e) The Housing Provider is in compliance with all applicable federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules and bylaws.
- (f) The Housing Provider: (i) is an Eligible Housing Provider; (ii) is the owner of an Eligible Housing Project; (iii) the Work performed pursuant to this Agreement is Eligible Work; and (iv) the soft costs submitted pursuant to this Agreement are Eligible Soft Costs.

## 16. AFFIRMATIVE COVENANTS OF THE HOUSING PROVIDER

Except as otherwise specified, the Housing Provider covenants and agrees that it will, in consideration of the receipt of Funds under this Agreement:

### 16.1 General

- (a) Diligently maintain, use and operate the Housing Project, and carry on its business as an Affordable Housing Project in a proper and efficient manner so as to preserve and protect the affordable nature of the Housing Project and its earnings, incomes, rents, issues and profits. **The Housing Provider further covenants that it will continue to operate the Housing Project as an Affordable Housing Project for ten (10) years from the date of this Agreement including a minimum of five (5) years as social housing under the HSA, regardless of the end of any operating agreements, mortgage maturation, and/or the expiry of any entitlement to subsidy.** For greater certainty, in the event that the Housing Provider currently operates within the operating framework of a Project Operating Agreement, the Housing Provider will continue to operate the Housing Project in accordance with the terms and conditions of that Project Operating Agreement for ten (10) years from the date of this Agreement notwithstanding the expiry of the Project Operating Agreement

or cessation of any subsidy or other financial assistance prior to that date.

- (b) Maintain at all times proper records (including but not limited to invoices) and books of account and make true and correct entries in the records of all dealings and transactions related to the Housing Project and Work funded under the Program for minimum of ten (10) years following completion of all Work.
- (c) Provide the Service Manager with written notice of the occurrence of any material litigation proceeding or dispute affecting the Housing Project and provide to the Service Manager all reasonable information requested by the Service Manager concerning the status of the litigation, proceeding or dispute.
- (d) Advise the Service Manager in writing when the approved Work is completed and the total cost thereof along with final invoice.
- (e) Assist and provide information and documentation to the Service Manager to allow the Service Manager to complete the Service Manager's Provincial reporting requirements for the Program.
- (f) At any time or from time to time, upon the request of the Service Manager and at the sole expense of the Housing Provider, execute and deliver or cause to be executed and delivered such further documents and so such other acts and things as the Service Manager may reasonably request in order to effect fully the purposes of this Agreement and other agreements contemplated hereby.
- (g) Minimize disruption to the tenants of the Housing Project while approved Work is undertaken.
- (h) Submit an application for a HST rebate with the Provider's next annual tax filing following receipt of the Funds for the Work.

#### 17. EVENT OF DEFAULT

Upon the occurrence of any of the following events of default (individually an "**Event of Default**"):

- (a) Any representation or warranty made by the Housing Provider herein or in any instrument submitted pursuant hereto proves to be false in any material respect or the Housing Provider breaches one or more of the covenants and/or other term set out in this Agreement;
- (b) The Housing Provider becomes insolvent or bankrupt or subject to the provisions of the *Winding-Up Act and Restructuring Act*, R.S.C. 1985, c. W-11, as amended or the *Bankruptcy and Insolvency Act*, R.S.C. 1985, C. B-3, as amended, or goes into liquidation, either voluntarily or under an order of a court of competent jurisdiction, or makes a general assignment for the benefit of its creditors or otherwise acknowledges itself insolvent.
- (c) The Housing Provider abandons the Housing Project or ceases or threatens to cease to manage and operate the Housing Project as it is presently managed and operated, or threatens to commit any act of bankruptcy.
- (d) Any execution or any other process of any court becomes enforceable against the Housing Project or if a distress or analogous process is levied on the Housing Project, and the execution, sequestration, extent, distress or process, remains unsatisfied for a period as would permit the Housing Project or a part of it to be sold.
- (e) Steps are taken or proceedings are commenced by any person to dissolve, wind up or terminate the existence of the Housing Provider or to liquidate its assets.
- (f) Any trustee, receiver, receiver and manager or similar person is appointed with respect to the Housing Project.
- (g) The Housing Project is seized under execution or attachment.
- (h) The Service Manager, in good faith believes that the ability of the Housing Provider to pay any of its obligations to the Service Manager or to perform any

of the covenants contained in the Agreement is impaired or in jeopardy.

- (i) Failure to provide data/reports as set out in this Agreement in accordance with the timelines and in the format as requested by the Service Manager.
- (j) Failure of the Housing Provider to remain “Affordable” as ascribed in Section 16.1 (a)

then, or at any time thereafter, unless such default is first remedied within a reasonable period of time after notice has been given to the Housing Provider of the particulars of the Event of Default, a declining balance of refundable pro-rated amount of Funds provided by the Service Manager to the Housing Provider to reflect the portion of the ten (10) year period for which the Housing Project shall not be Affordable will become due and payable with interest in accordance with section 3 of the *Interest Act* of Canada. In such event, the Service Manager may commence such legal actions or proceedings against the Housing Provider as may be permitted hereunder, or at law or in equity, all as the Service Manager, in its sole discretion, deems expedient. The Housing Provider acknowledges that the Service Manager’s remedies are cumulative and not mutually exclusive.

No express or implied waiver by the Service Manager of any default hereunder will in any way be construed to be a waiver of any future or subsequent default. A waiver by the Service Manager of its right to exercise one remedy in respect of an Event of Default will not operate as a waiver by the Service Manager of its right to exercise another remedy in respect of that Event of Default. The Housing Provider hereby waives any rights now or hereafter conferred by statute or otherwise which may limit or modify any of the Service Manager’s rights or remedies, hereunder or under any documents made in connection herewith.

## **18. FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY**

The Housing Provider acknowledges that the Service Manager is bound by the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, C M.56 and that any information provided to the Service Manager in connection with the Program or otherwise in connection with this Agreement may be subject to disclosure in accordance with that Act.

## **19. REMEDIES CONFERRED BY THE HSA**

The Parties agree that nothing herein contained will in any way limit or modify the Service Manager’s rights or remedies conferred by the HSA in respect of the Housing Project.

## **20. NOTICE**

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 facsimile communication, and confirmed by mailing the original documents so sent by prepaid mail on the same or following day, addressed as follows:

- (a) in the case of notice to the Service Manager:

The City of London  
Attention: Manager, Housing Services  
P.O. Box 5035  
267 Dundas Street, 3<sup>rd</sup> floor  
London, ON  
N6A 4L9

- (b) in the case of notice to the Service Provider:

Name

Attention:

Fax.

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.

## **21. GENERAL**

- (a) This Agreement will enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.
- (b) Except as expressly provided herein, this Agreement will not be assignable by the Housing Provider without the prior written approval of the Service Manager which approval may be arbitrarily withheld.
- (c) In this Agreement, whenever the context requires or permits, the singular will include the plural, and the plural will include the singular, and the masculine and the neuter will include each other and the feminine pronoun.
- (d) This Agreement is to be governed by the laws of the Province of Ontario and the applicable federal laws of Canada. Any action or proceeding arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.
- (e) Time will be of the essence of 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 Service Manager and the Housing Provider.
- (f) Any provision of this Agreement which is or becomes prohibited or unenforceable in any jurisdiction will not invalidate or impair the remaining provisions of this Agreement which will be deemed severable from the prohibited or unenforceable provision and any prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable that provision in any other jurisdiction.
- (g) No amendment of any provision of this Agreement will be made unless it is in writing and signed by all Parties.
- (h) All amounts referred to herein are in Canadian Dollars, unless the context otherwise requires.
- (i) Any reference to a statute will mean the statute in force and effect as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated or replaced from time to time, and any successor statute thereto, unless otherwise expressly provided herein.
- (j) This Agreement including any Schedules constitutes the entire agreement among the Parties with regard to the matters dealt with herein and cancels and supersedes any prior agreements, undertakings, declaration or representations, written or verbal in respect of it.
- (k) The Parties understand and agree that the recitals will form part of this Agreement.

- (l) The Housing Provider acknowledges that it is not an agent, joint venture, partner or employee of the Service Manager, and the Housing Provider will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any action that could establish or imply such a relationship.
- (m) Section 6, 8, 12, 15, 16, 18, and 21 will survive termination or expiration of this Agreement and continue in full force and effect thereafter, together with any other provisions of this Agreement which expressly or by its nature survives termination or expiration, or which contemplates performance or observance subsequent to termination or expiration of this Agreement.
- (n) Descriptive headings, articles, sections, schedules or exhibits are for convenience only and will not control for affect the meaning or construction of any provision of this Agreement.

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

**SIGNED, SEALED AND DELIVERED**

**THE CORPORATION OF THE CITY OF  
LONDON AS REPRESENTED BY THE  
MANAGING DIRECTOR, HOUSING, SOCIAL  
SERVICES AND DEARNESS HOME**

\_\_\_\_\_  
**Sandra Datars Bere**  
Managing Director  
Housing, Social Services and Dearness  
Home

**[Insert name of Housing Provider]**

\_\_\_\_\_  
**Authorized Signing Officer**

\_\_\_\_\_  
Name and Title (Please Print)

\_\_\_\_\_  
**Authorized Signing Officer**

\_\_\_\_\_  
Name and Title (Please Print)

I/We have the authority to bind the  
Corporation

**SCHEDULE “A”**

**THE WORK**

## **SCHEDULE “B”**

### **FUNDING / BUDGET ITEMS/ ELIGIBLE EXPENDITURES SCHEDULE**

#### **1. MAXIMUM AMOUNT OF FUNDING (inclusive of HST):**

#### **2. ELIGIBLE EXPENDITURES**

The following includes a listing of eligible expenditures under this funding:

Renovation/retrofit activities eligible to receive SHIP funding include the following:

- Replacement or reconstruction of worn out or obsolete major buildings or site components, major building system or services, basic facilities and equipment, kitchen and bathroom facilities, safety features, parking facilities and walkways.
- Upgrading any of the foregoing to modest modern standards.
- Substantial modifications to provide or improve accessibility for persons with disabilities.
- Upgrades carried out for improving energy efficiency as determined by a qualified professional.
- Water conservation upgrades.
- Regeneration within the portfolio of existing eligible social housing including conversion of units, and demolition and reconstruction of all or part of a project.

#### **3. AFFORDABLE**

For purposes of this Agreement, the Housing Project will remain at X% Affordable during the term of this Agreement.

#### **4. VENDOR**

A vendor is a party, also known as a supplier, which provides goods and services to the Housing Provider in relation to the “Work”

#### **5. INVOICE**

- (a) An invoice is a document that itemizes the transaction between parties.
- (b) The Vendor invoice submitted to the Housing Provider will typically contain the following (but not limited to):
- (i) Document labelled as “Invoice”
  - (ii) Contact info of Vendor
  - (iii) Contact info for the Housing Provider which received the Goods and/or Services
  - (iv) Transaction date
  - (v) Itemized list and description of Goods and/or Services and related unit quantity provided to the Housing Provider
  - (vi) Breakdown of total amount owed by the Housing Provider

#### **6. CLAIM / REQUEST FOR PAYMENT**

A claim for payment from the Housing Provider will require a Housing Provider invoice (as ascribed in Schedule “B” 5 (a)) submission to the Service Manager identifying:

- (a) The amount being requested by the Housing Provider (net of HST)
- (b) The time period in which the Housing Provider is requesting expenditure reimbursement
- (c) Copies of invoices received by the Housing Provider from the vendor for the “Work” completed
- (d) Any other information that the Service Manager requests in order to process the Housing Provider’s Claim / Request for Payment

## **7. HOLDBACK**

The Service Manager reserves the right to holdback a portion of Funds for situations such as but not limited to:

- (a) If the Service Manager is not satisfied that the Work has been completed to an acceptable standard as determined by the Service Manager
- (b) The Housing Provider has not provided the required reports in the form and detail required or acceptable to the Service Manager

## **8. REPORTS**

The Housing Provider shall submit to the Service Manager (typically at a quarterly basis or as requested) such information as requested by the Service Manager such as but not limited to:

- (a) Status of Work during its repair, retrofit and/or regeneration activities
- (b) Estimated completion date
- (c) Expenditures of the Work completed to date (typically on a quarterly basis)
- (d) Expenditure forecast for the remaining Work
- (e) Depth of Affordability along with Attestation
- (f) Any other report requested by the Service Manager to complete the Service Manager's Provincial reporting requirements for the Program

**SCHEDULE “C” - Bid/Quote Summary Form**  
**<<Project Name>>**  
**<<Housing Provider name, Site name (if different)>>**  
**<<Site Address>>**

**Introduction:** <<Housing Provider>> requested quotes from <<number of contractors>> contractors for the work outlined above. The contractors included; <<name contractors>>. From these contractors, <<name of contractor(s)>> did not submit a quote. <<if applicable>>

**Scope of Work:** The contractors were approached to complete <<write a description of the work to be completed under the project, attach any documents that were distributed>>.

**Summary of Bids**

We have summarized the quotes received for the project. Please find the quotes attached to this.

| Contractor (list alphabetically) | Quote (example) |
|----------------------------------|-----------------|
| Contractor A                     | \$10,000        |
| Contractor B                     | \$11,000        |
| Contractor C                     | \$12,000        |

The Board of Directors agrees that all contractors have submitted a quote by the requested deadline and have based their quotes on the same scope of work and component materials. The Board of Directors declares that there is no conflict of interest with any of the contractors listed above.

At a Board meeting, dated <<insert date>>, the Board of Directors reviewed the quotes and has selected <<contractor name>> to complete the work. This decision was based on the following:

- <<insert explanation – samples below>>
- Competitive bid
- The Board of Directors has working knowledge of this contractor
- Follow-up with references had a positive outcome

<<Contractor’s name>> has committed to a start date of <<insert date>>, weather permitting <<if applicable>>

<<Housing Provider Name>>  
<<date>>, <<signature>>, <<singed by, position>>

APPROVED BY THE \_\_\_\_\_ ON \_\_\_\_\_

BY: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_