

**DEVELOPMENT AGREEMENT – MUNICIPAL LAND DISPOSITION GRANT**

THIS AGREEMENT made this 24<sup>th</sup> day of Feb, 2021

BETWEEN:

HABITAT FOR HUMANITY DRYDEN CHAPTER

(hereinafter called the "Purchaser")

OF THE FIRST PART,

-and-

THE CORPORATION OF THE CITY OF DRYDEN

(hereinafter called the "City" or "Municipality")

OF THE SECOND PART,

WHEREAS the Purchaser has obtained approval from the CIP Administrator or Council of the Municipality;

AND WHEREAS the lands agreed upon contained within this agreement are legally known as:

**Plan M720, Lot 85, District of Kenora;**

AND WHEREAS all of the said property has been declared to be surplus vacant land by the City;

AND WHEREAS this Purchaser has agreed to accept exclusive rights of development of the said property upon the terms and subject to the conditions herein recorded;

AND WHEREAS the execution of this agreement was authorized by By-law \_\_\_\_-2021, on the 24<sup>th</sup> day of Feb, 2021;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants herein contained and other good and valuable consideration (the sufficiency of which is hereby acknowledged), the parties hereto hereby covenant and agree as follows:

1. Prohibition

The Purchaser hereby agrees that no development will proceed or take place on the Lands except as shown on plans, drawings and specifications approved by the CIP Administrator or Council of the Municipality that were submitted during the Grant approval process, and without limiting the generality of the foregoing, development shall include the construction of a single family residence or the construction, erection, installation or placement on the lands of any improvement as applicable to the particular grant application.

The grant application (including the plans, drawings and specifications) as approved by the CIP Administrator or Council of the Municipality are incorporated by reference into this agreement.

2. Conditions

The Purchaser shall ensure that the City of Dryden has declared said lands as surplus and that an approved CIP application and agreement is completed and signed before proceeding with land acquisition.

Market value of the Lands will be deemed to be twenty-three thousand, one hundred and twenty dollars \$23,120 as determined by the City of Dryden. It will be demonstrated to the satisfaction of the City, acting reasonably, that the development of the Lands will be in the City's best interests and will meet the vision and goals of the CIP as required by the Municipal Land Disposition Grant.

Unless otherwise approved by the City pursuant to Section 1 hereof, the Purchaser shall develop the Lands and any adjoining abutting municipal property being part of the road allowance but not part of the traveled roadway (hereinafter referred to as the "Boulevard") in accordance with the time frame and the conditions contained herein.

The purchaser shall not assign the agreement or any of their obligations hereunder without the prior written consent of the Municipality and the decision to do so is at full discretion of Council.

The Purchaser acknowledges that they understand and abide by the terms of the Municipal Land Disposition Program through the City of Dryden Community Improvement Plan, the terms of which are hereby incorporated into this agreement by reference

Building Permit Requirements:

The purchaser is required to apply for an initial building permit within six (6) months of the signing of this development agreement.

3. Conformity with Site Development Control and Conditions

The Purchaser further agrees that if any structures, buildings, facilities, services, works or landscaping improvements are constructed or altered on the Lands and Boulevard, they will be constructed in conformity with the CIP Grant application process and plans and conditions contained herein. It is understood and agreed that if development is not commenced within twelve (12) months of the approval or any part thereof by the CIP Administrator or Council of the Municipality of the Development Agreement, such approval shall at the option of the City become null and void. In such event, the Purchaser hereby acknowledges that the City may alter, amend or revoke any or all of the conditions of approval previously given and substitute new conditions of approval under Default terms contained in Article 13.

4. Maintenance

The Purchaser shall maintain in good repair and in a safe and clean condition the Lands and Boulevard, vegetation, services, works and landscaping on the Lands and Boulevards at his own expense and shall do all acts necessary to comply with and properly carry out and provide for the maintenance and use thereof, including the replacement or repair of broken, damaged or worn material or parts and the replacement of dead or deceased vegetation. The Purchaser shall further keep the Lands and Boulevard free and clear of all refuse, debris and obstructions before, during and after the development of said lands.

5. Building or Demolition Permits

In the event the development of the Lands herein contemplated requires any other municipal or other governmental approvals, including but not limiting the generality of the foregoing, a building permit or planning application pursuant to the provisions of the Planning Act, 1990, (as amended), a permit for access, ingress or egress, approvals pursuant to the provisions of the Environmental Assessment Act, (as amended) or the Environmental Protection Act (as amended), the approval of the Medical Officer of Health, or the approval of any other governmental body or agency, then in such event the Purchaser hereby agrees not to commence any work on the unless all such approvals or permits have been obtained. This agreement does not guarantee that such approvals will be provided. Rather, any approvals are dependent upon the terms and conditions normally accompanying the applicable process being met as determined by the relevant municipal or other government authority.

6. Hydro

The Purchaser shall, at its sole cost, comply with the requirements of Hydro One, and Dryden Public Works where applicable, including bearing the cost of the relocation of existing hydro facilities if applicable.

7. Costs

The Purchaser shall pay to the City, forthwith upon demand, all costs and expenses incurred by the City, whether directly or indirectly, in connection with this Agreement and its approval. Without limiting the generality of the foregoing, such costs and expenses shall include a charge for the processing of the Development Agreement by the City, and all legal, surveying and engineering costs and the costs of any consultants retained by the City incurred in connection with this Agreement, the supervision of all of the works undertaken in connection therewith or in ensuring compliance with this Agreement and the registration thereof on title to the Lands.

8. Purchaser's Expense

The Purchaser acknowledges that where this Agreement obliges the Purchaser to perform any work or do anything, it is to be done at the Purchaser's expense and not at the City's expense.

9. Registration

The Purchaser acknowledges that they shall register this Agreement on title to the Lands immediately upon approval and execution of this Agreement by both parties. The Purchaser shall be responsible for the costs incurred in the preparation of the Agreement and for any legal costs involved with registering it (without limitation such costs include filing fees, legal costs, transfer taxes, etc.). Proof of registration shall be provided to the City upon completion.

10. Indemnification by Purchaser

The Purchaser shall indemnify and save harmless the City against all actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly by reason of this Agreement or the Purchaser undertaking the development herein referred to,

The Purchaser acknowledges that:

- i) Nothing in this Agreement limits or fetters the City in exercising its statutory jurisdiction under the Planning Act or under any other legislative authority or by-law and that in the event the City decides to deny or oppose or appeal any such decision, that such action by the City is not in any manner limited by reason of the City entering into this Agreement;

- ii) Nothing in this Agreement is intended to be or shall be construed to be a representation by the City regarding compliance of the Lands with applicable environmental laws regulations, policies, standards, permits or approvals, or other by-laws and policies of the City.

11. General Obligations by Purchaser

The Purchaser shall ensure there are no liens or other claims outstanding in respect of the Lands at any time, or if any lien is registered on title to the Lands or a claim is filed or made against the Purchaser, the Purchaser shall take such actions as necessary to defend against such lien or claim, to have the lien deleted or discharged from title or such claim withdrawn or dismissed. The Purchaser shall, from time to time, report to the City with respect to such matters or otherwise upon request by the City.

The Purchaser shall ensure that the Lands are maintained in uncontaminated condition and it shall not take any action or fail to take action that results in the Lands being contaminated during the term of this agreement

12. Right of Entry

The Purchaser covenants and agrees with the City to grant, and hereby grants to the City or its authorized representatives, the right to enter upon the Lands or any part thereof in order to ascertain whether or not the provisions of this Agreement have been complied with in full.

13. Default

In the event of any default by the Purchaser pursuant to any of the terms of this Agreement, in addition to any other remedies available to the City and without any limitation thereof, the City shall, where practical, provide written notice of the default to the Purchaser. The Purchaser shall have thirty (30) days, or such lesser amount of time as is reasonable in the circumstances, to remedy (or to commence to undertake such actions as are necessary to remedy such default provided such actions are being diligently pursued by the Purchaser) the default to the satisfaction of the City within the time period prescribed herein. Where the default is not remedied to the satisfaction of the City, the City may exercise any remedy available at law and pursuant to this Agreement. Without limiting the generality of the foregoing, the City may:

- i) undertake or complete any obligation or rectify any default of the Purchaser hereunder;
- ii) enter upon the Lands through its servants or agents for any purpose whatsoever;
- iii) delay, cancel any or all CIP grants applicable;
- iv) recover from the Purchaser all costs and expenses incurred by the City whether directly or indirectly, with respect to the default or the remedy thereof, and collect such costs and expenses in like manner as municipal taxes. This can include expenses to audit the information as it relates to the default and/or require that the Purchaser repay all or any part of the CIP Grant already provided to the Purchaser, and;
- v) if construction has not commenced, the City can exercise the option to re-purchase said lands for the agreed upon reduced price, less any costs incurred by the City with respect to the initial disposition of the Land and the costs of re-purchasing the land (without limitation such costs include filing fees, legal costs, transfer taxes, etc.
- vi) if construction has commenced, the City can require the Purchaser to pay the City of Dryden the balance of the full market value of the property (less the reduced price already paid.
- vii) terminate this Agreement.

14. Drainage

The Purchaser shall not take any action or cause any work to be done that will adversely affect drainage from or onto properties adjoining the Lands, and the purchaser shall with the prior approval of the City, at the Purchaser's expense, construct such drainage works as may be required. Notwithstanding the aforesaid, the Purchaser shall indemnify and save harmless the City with respect to drainage from or onto lands adjoining the Lands as a result of the development or re-development hereby contemplated and the construction of any works, facilities or structures on the Lands.

15. Renegotiation of Agreement

The Purchaser agrees that the Municipality may, at their option, on thirty (30) days written notice to the Purchaser, declare this Agreement to be subject to renegotiation whereupon the Purchaser agrees not to undertake any construction or installation of any of the Works or any of the Private Works until this Agreement has been renegotiated. The Agreement may be subject to renegotiation if no construction or installation of any of the Works has commenced within twelve (12) months of issuance of a building permit.

16. Invalidity

If a Court of competent jurisdiction should declare any section or part of a section of this Agreement to be invalid or unenforceable, such section or part of a section shall not be construed as being an integral part of the Agreement or having persuaded or influenced a party to this Agreement to execute the same, and it is hereby agreed that the remainder of the Agreement shall be valid and in full force and effect.

17. Counterparts

This Agreement may be simultaneously executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute but one and the same instrument.

18. Interpretation

In construing this Agreement, words in the singular shall include the plural and vice versa and words importing the masculine shall include the feminine, and neuter and vice versa, and words importing persons shall include corporations and vice versa. In the event of any conflict or ambiguity of this Agreement, the decision of the Clerk of the Municipality shall be final and binding.

In any controversy or dispute regarding the interpretation, validity or enforcement of this Agreement or any of its provisions, there shall be no inference, presumption or conclusion drawn against either party by virtue of that party having drafted this Agreement or any portion thereof.

20. Notice

All notices, demands or requests provided for or permitted to be given pursuant to this Agreement shall be made in writing as follows:

- i) If made to the City, shall be addressed to The Clerk, City of Dryden
- ii) If made to the Purchaser at their respective designated addresses for service shown on the Document General attached to this Agreement in the Registry Office in which this Agreement is registered.

All notices, demands or requests shall be deemed to have been properly given if delivered personally or sent by prepaid and registered mail, return receipt requested. If notice is given by mail, the same shall be effective five (5) business days of being deposited with the post office, or upon proof of delivery by return receipt. However, in the event of the interruption of postal services, the notice shall not be deemed to have been given during such period of interruption, unless the notice has been actually received.

**IN WITNESS WHEREOF**, the individual parties hereto have hereunto set their hands and seals and the Corporate parties have hereunto affixed their Corporate Seal as attested to by the hands of their proper officers in that behalf duly authorized.

SIGNED, SEALED AND DELIVERED

Authorized to be executed by: THE CORPORATION OF THE CITY OF DRYDEN

By-law # \_\_\_\_\_ passed on the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MAYOR (signed) CITY OF DRYDEN

\_\_\_\_\_  
CLERK (signed) CITY OF DRYDEN

  
\_\_\_\_\_  
PURCHASER (signed) HABITAT FOR HUMANITY DRYDEN CHAPTER