

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT made this _____ day of _____, 20_____

BETWEEN:

The Corporation of the County of Grey
(hereinafter called the "Seller")

-And-

1993934 Ontario Inc.

(hereinafter called the "Purchaser")

WHEREAS the County owns a parcel of land situated in the Geographic Township of Bentinck, Municipality of West Grey, in the County of Grey (hereinafter called "the Property");

AND WHEREAS County Council declared the Property surplus as approved by resolution CW98-18;

AND WHEREAS County Council approved By-law 5037-18 on November 22, 2018 being a bylaw to dispose of the Property for the development of affordable housing;

AND WHEREAS the Property has an MPAC appraised value of \$65,000.00;

NOW THEREFORE in consideration of the mutual terms and covenants hereinafter set out and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1.0 Definitions

In this Agreement:

- 1.1 "Agreement" means this Agreement of Purchase and Sale and all schedules forming part of the Agreement.
- 1.2 "Business Day" means any day on which the County of Grey normally conducts business.
- 1.3 "Closing" means the closing of this Transaction, including the payment of the Purchase Price and the delivery of the closing documents in accordance with the provisions of this Agreement.
- 1.4 "Closing Date" means the date agreed too between the Seller and Purchaser in accordance with Section 5.1 of this Agreement.
- 1.5 "Date of Acceptance" means the date the Seller approves and signs this Agreement.
- 1.6 "Irrevocable Date" means the date by which the Seller must accept the terms of this Agreement. For the purposes of this Agreement the Irrevocable Date is the date referred to in Section 3.1.
- 1.7 "Property" means the property legally described as: Part of Park Lot 8 North Side of Chester Street West Plan 500 Durham as in GS38555 Except R443637; Bentinck, Municipality of West Grey, County of Grey.
- 1.8 "Purchase Price" means the total amount as set out in Section 2.1, in addition to HST, if applicable.
- 1.9 "Purchaser" means 1993934 Ontario Inc.

1.10 "Sale Approval" means the necessary internal approvals from The Corporation of the County of Grey required to dispose of the Property.

1.11 "Seller" means The Corporation of the County of Grey.

2.0 Purchase Price

2.1 The Seller agrees to transfer the Property to the Purchaser and the Purchaser agrees to accept the Property from the Seller for the Purchase Price of TWO DOLLARS (\$2.00) Canadian plus the cost of all of the Sellers legal costs associated with this transfer, the amount of which will be provided to the Purchaser prior to closing, which shall be paid by the Purchaser to the Seller for the Property, in addition to HST, if applicable, on Closing.

2.2 The Purchaser submits upon acceptance a ONE DOLLAR (\$1.00) deposit receipt and sufficiency of which is hereby acknowledged.

2.3 The balance of the Purchase Price shall be paid prior to 4:00 p.m. on the Closing Date, by the Purchaser to the Seller, by way of certified cheque or bank draft made payable to the Sellers solicitor or as they may direct.

3.0 Irrevocable Date

3.1 This offer shall be irrevocable by the Purchaser until 4:00 p.m. on the 30th day of November, 2018, after which time, if not accepted by the Seller, this offer shall be null and void and the deposit shall be returned to the Purchaser in full without interest.

4.0 HST

4.1 If the sale of the property is subject to Harmonized Sales Tax (H.S.T.), then such tax shall be in addition to the Purchase Price.

4.2 The Purchaser acknowledges that the Seller will not supply any warranty, statutory declaration or certificate with respect to the Property's status or as to whether this transaction is an exempt supply in accordance with the provisions of the Excise Tax Act.

4.3 The Purchaser agrees to provide to the Seller, on or before closing, confirmation that the Purchaser is an H.S.T. registrant under the Excise Tax Act, in a form satisfactory to the Seller to the effect that the Purchaser shall remit as required by the Excise Tax Act any H.S.T. payable in respect of the sale of the Property and shall indemnify the Seller in respect of any H.S.T. so payable.

5.0 Closing Date

5.1 The closing of this transaction shall occur by December 31, 2018 or such earlier date as agreed to in writing between the parties.

6.0 Purchasers Indemnity

6.1 The Purchaser acknowledges and agrees that:

a) It has satisfied itself with respect to the applicable land use regulations and agrees to purchase the Property subject to such existing zoning and other land use policies and regulations.

b) It shall not call for the production of any title deed, abstract, survey or other evidence of title to the Property, except those that are in the possession or control of the Seller.

- c) It is acquiring the Property in an “As Is Where Is” basis, including improvements, structures, trees and shrubs.

6.2 In agreeing to purchase the Property in an “As Is Where Is” basis, the Purchaser acknowledges and agrees that:

- a) The Seller makes no representations to the Purchaser as to the zoning of the Property or any improvements or structures, whether for the intended use or otherwise.
- b) The Seller shall have no responsibility whatsoever to remedy any defect, comply with any work order or complete any unfinished work.
- c) The Seller makes no representations or warranties whatsoever, either expressed or implied, as to the existence or non-existence of any asbestos, PCB’s, radioactive substances or any other substances, liquids or materials or contaminants which may be hazardous or toxic or require removal and disposal pursuant to the provisions of any applicable legislation (all of the foregoing being hereinafter called “Environmental Matters”). The Purchaser is relying upon its own investigations, if any, in this regard. From and after the Closing Date, the Property shall be the sole risk of the Purchaser, and the Seller, its successors and assigns, will have no further liability in respect of any Environmental Matters. The Purchaser covenants and agrees that this covenant shall survive and not merge on closing of this transaction, to indemnify and save harmless the Seller in respect of any claims, demands, losses, damages, in any way related directly or indirectly to any Environmental Matters and in respect of orders or claims, charges or requirements whatsoever of any Municipal, Provincial, Federal or other governmental body, board, commission, authority, department or Ministry, or employees, officials or representatives thereof.
- d) The Purchaser acknowledges having inspected the Property prior to the Closing Date and is relying on its own due diligence as to the condition of the Property and improvements.

6.3 The Purchaser covenants and agrees that, effective as of the Closing Date, the Purchaser shall forever release the Seller and its successors and assigns from and against all losses, damages, claims, fines, liabilities, actions, suits, in any way arising, directly or indirectly by reason of the presence on the Property of any contaminant, pollutant, dangerous substance wastes (liquid or solid) or toxic substance or the escape thereof in the air or onto adjacent properties or Property including rivers, streams, and ground waters, (collectively the “Substances”), whether produced, created or generated before or after the Closing Date and such indemnity shall include any order, decree, judgment or demand under law, regulation or order applicable thereto. The Purchaser, its successors and assigns, hereby agree to indemnify and hold harmless the Seller, its successors and assigns from any and all costs, claims demands, liabilities and damages arising out of or in any way connected with any state, quality or condition in, or of, the Property, including, but not limited to, the existence of any Substances existing as of, or prior to the Closing Date and thereafter, whether environmental or otherwise, whether imposed by law, equity or any federal, provincial or municipal law, rules or regulations or by any regulatory authority. The provisions of this section shall survive closing and any subsequent sale or transfer of the Purchaser’s interest in the Property. On closing, the Purchaser shall in writing and in a form acceptable to the Seller, provide its covenants respecting the indemnity and release and other contents of this paragraph.

7.0 Purchasers Condition

7.1 (This section has been intentionally deleted)

8.0 Sellers Conditions

- 8.1 The obligation of the Seller to complete the Transaction is conditional upon fulfilment of each of the following conditions on or before the Closing Date or any earlier date or time specified in this Agreement:
- a) This Agreement is conditional upon the Purchaser entering into a Contribution Agreement through the Investment in Affordable Housing Program Rental Build Program with the Seller, in a form reasonably satisfactory to the Seller, on or before the 14th day of December, 2018.
- 8.2 Unless the Seller gives notice in writing delivered to the Purchaser personally or in accordance with any other provisions for the delivery of notice in this Agreement by the 14th day of December, 2018, that this condition is fulfilled, this Agreement shall be null and void and the deposit shall be returned to the Purchaser in full without deduction.
- 8.3 These conditions are included for the benefit of the Seller and may be waived at the Sellers sole option by notice in writing to the Purchaser or its solicitor.

9.0 Risk

- 9.1 From and including the Closing Date, the Property shall be entirely at the risk of the Purchasers and the Purchaser shall accept and assume all responsibilities and liabilities arising out of or in any way connected with the Property whether they arose before, on or after the Closing Date and, without being limited by the foregoing, include any state, nature, quality or condition in, on under or near the Property existing on Closing, whenever and however arising, whether known or unknown environmental or otherwise, and whether such responsibilities and liabilities are imposed by law, equity or any Authority.

10.0 Warranties, Representation and Covenants

- 10.1 The Purchaser agrees to accept title to the Property subject to municipal requirements, including building and zoning by-laws, easements for hydro, gas, telephone and similar services to the Property or any part thereof, and to restrictions and covenants that run with the Property or any part thereof, including but not limited to:
- a) All registered and unregistered easements existing at the date of acceptance of this Agreement;
 - b) Existing by-law(s);
 - c) Other agreements and restrictions on title to the extent that they have been complied with;
 - d) Any encroachment or location of existing fencing which differs somewhat from the property lines as surveyed; and
 - e) Any existing environmental conditions or contamination to the site.
- 10.2 The Seller warrants and represents to the Purchaser that the Seller is not a non-resident of Canada within the meaning and intended purpose of Section 116 of the Income Tax Act, R.S.C. 1985, c.1.
- 10.3 Any information provided by the Seller or its agents and any comments made by the Seller, its employees, officers, directors, appointees, agents or consultants are for the assistance of the Purchaser in allowing it to make its

own inquiries. The Seller makes no representations or warranties as to, and takes no responsibility for, the accuracy or completeness of any information it has provided to the Purchaser.

- 10.4 The Seller makes no representations to the Purchaser regarding the title to or the condition of the Property.
- 10.5 The Seller agrees to provide vacant possession of the Property to the Purchaser on the Closing Date, unless otherwise agreed to in writing by the Seller and Purchaser.
- 10.6 The Purchaser shall not assign or register this Agreement, or any assignment of this Agreement, or any part of either, or register a caution in relation thereto, on the title to the Property.

11.0 Preparation of Transfer/Deed Documents and Fees/Costs

- 11.1 The Transfer/Deed of the Land will be prepared by the Seller, except for the Affidavit of Residence and Value of the Consideration ("**Land Transfer Tax Affidavit**"), which will be prepared by the Purchaser. The Purchaser acknowledges that the Seller will not be signing the *Planning Act* statements in the Transfer/Deed of Land.
- 11.2 The Purchaser shall pay its own legal costs and registration costs. The Purchaser shall be responsible for the payment of Land Transfer Tax and registration fees and any other taxes and fees payable in connection with the registration of the transfer/deed of the Property.

12.0 Electronic Registration

- 12.1 Where the Property is in an area where electronic registration is mandatory and the Transaction will be completed by electronic registration pursuant to Part III of the *Land Registration Reform Act*, R.S.O. 1990, c. L.4, and the *Electronic Registration Act*, S.O. 1991, c.44, and any amendments thereto, the Seller and Purchaser acknowledge and agree that the exchange of closing funds, non-registrable documents and other closing deliverables provided for herein and the release thereof to the Seller and Purchaser will:
 - a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this Transaction); and
 - b) be subject to conditions whereby the lawyer(s) receiving any of the closing deliverables will be required to hold same in escrow and not release same except in accordance with the terms of the latest Document Registration Agreement recommended from time to time by the Law Society of Upper Canada.

13.0 Closing Deliverables

- 13.1 Subject to the provisions of this Agreement, the Seller covenants that it shall execute or cause to be executed and shall deliver or cause to be delivered to the Purchaser or the Purchaser's solicitor on or before the Closing Date, each of the following:
 - a) Vacant possession of the Property;
 - b) An executed Transfer/Deed of Land in registrable form duly executed by the Seller in favour of the Purchaser (save for any Land Transfer Tax Affidavit);

- c) Direction regarding the payment of funds;
- d) Statement of Adjustments, which will be deliverable at least five (5) business days prior to the Closing Date;
- e) Undertaking to re-adjust the statement of adjustments, if necessary, upon written demand following closing; and
- f) .

13.2 Subject to the provisions of this Agreement, the Purchaser shall execute or cause to be executed and shall deliver or cause to be delivered to the Seller or the Seller's Solicitor on or before the Closing Date:

- a) Certified cheque or bank draft made payable to Sellers solicitor for the balance of the Purchase Price due on the Closing Date;
- b) Direction regarding title, if necessary;
- c) Undertaking to re-adjust the statement of adjustments, if necessary, upon written demand following closing.
- d) HST Declaration and Indemnity, as contemplated in Section 4.3, if applicable;
- e) Purchaser's Indemnification in accordance with Section 6.3 of this Agreement;
- f) Any documentation required by the Seller pursuant to the proposal made to the Seller by the Purchaser dated the 26th day of September, 2018 (the "Proposal") in response to RFP-HOU-17-18 issued by the Seller on the 5th day of September, 2018 (the "Project Documentation"), including but not limited to an option to purchase agreement in favour of the Seller exercisable within 24 months following the Closing Date granting the Seller the option to repurchase the Property free and clear of all encumbrances for the same Purchase Price in the event that the Purchaser has not complied with the terms of the Proposal or any of the Project Documentation; and
- g) Such other resolutions and other documents as the Seller or its solicitors may reasonably require in order to implement the intent of this Agreement.

14.0 Time

14.1 Time shall be in all respects of the essence hereof provided that the time for doing or completing any matter herein may be extended or abridged by an agreement in writing signed by the Seller and the Purchaser or by their respective solicitors who are hereby expressly appointed in this regard.

15.0 Notice

15.1 Any notice required to be given, served or delivered must be in writing and sent to the other party at the address indicated below, or to such other address as may be designated by notice provided by either party to the other.

For the Purchaser:

1993934 Ontario Inc.
323108 Durham Road West
Durham, ON N0H 1R0

And to the Purchasers Solicitor at:

For the Seller:

The Corporation of the County of Grey
595 9th Avenue East
Owen Sound, ON N4K 3E3
Attention: Lacey Thompson, Land Acquisition Specialist
Telephone Number: 519-372-0219 ext. 1390
Email: lacey.thompson@grey.ca

And to the Sellers Solicitor at:

The Alliance Lawyers
142 10th Street West
Owen Sound, ON N4K 3P9
Attention: Rob Robinson
Telephone Number 519-376-7450

- 15.2 Any notice to be given by either party to the other shall, in the absence of proof to the contrary, be deemed to have been received by the addressee if
- a) delivered personally on a business day, then on the day of delivery;
 - b) sent by prepaid registered post, then on the second day following the registration thereof;
 - c) sent by ordinary mail, then on the fifth business day following the date on which it was mailed; or
 - d) sent by facsimile or email, upon confirmation of successful transmission of the notice.

16.0 Headings

- 16.1 The headings inserted into this Agreement are inserted for convenience only and shall not be used as a means of interpreting this Agreement.

17.0 Enforceability

- 17.1 The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any provision hereof and any such invalid or unenforceable provision shall be deemed to be severable.

18.0 Governing Law

- 18.1 This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising under or related to this Agreement.

19.0 Amendment of Agreement

- 19.1 None of the terms, conditions or provisions of this Agreement shall be held to have been changed, waived, varied, modified or altered by any act of statement of either party, its respective agents, servants or employees unless done so in writing signed by both parties.

20.0 Successors and Assigns

- 20.1 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
- 20.2 Neither party may assign all or any part of this Agreement without the written approval of the other party.

21.0 No Waiver

- 21.1 No term, agreement, provision, obligation or condition of this Agreement shall be deemed to have been waived by any party, unless such waiver is in writing and signed by the parties.
- 21.2 No waiver of any provision of the Agreement shall be deemed to or shall constitute a waiver of any other provisions, whether or not similar, nor shall such waiver constitute a continuing waiver unless expressly provided.

22.0 Dispute Resolution

- 22.1 A dispute between the parties relating to the interpretation or implementation of this Agreement will be addressed through good faith negotiation, with or without the assistance of a mediator. The parties agree that in the event that they are not able to reach a resolution of all the matters in dispute after mediation, then the matters remaining in dispute will be finally determined by arbitration in accordance with the provisions of the *Ontario Arbitrations Act*.
- 22.2 The location for any such arbitration hearing will be within the County of Grey at a location to be determined by the County.

23.0 Non-Merger

- 23.1 The Purchaser and Seller agree that all representations and warranties made by the Purchaser herein and in their proposal made to the Seller dated the 26th day of September, 2018 in response to RFP-HOU-17-18 issued by the Seller on the 5th day of September, 2018 shall not merge on the closing of this transaction and shall continue thereafter. On closing, the Purchaser shall in writing and in a form acceptable to the Seller, provide a Certificate respecting the contents of this paragraph to the Seller.

IN WITNESS WHEREOF THE PARTIES hereunto attested by the hands of the proper officers duly authorized in that behalf as of the day and year first written above.

The Corporation of the County of Grey

Stewart Halliday, WARDEN

Heather Morrison, CLERK

We have authority to bind the Corporation

1993934 Ontario Inc.

Print Name:

Title:

Print Name:

Title:

We have authority to bind the Corporation

SCHEDULE "A"

LEGAL DESCRIPTION OF LANDS

Part of Park Lot 8 North Side of Chester Street West Plan 500 Durham as in GS38555 except R443637; Geographic Township of Bentinck, Municipality of West Grey, County of Grey

Roll No.: 42 05 260 001 05901 0000

PIN No.: 37318-0094