SITE PLAN AGREEMENT

This AGREEMENT made this __________day of __________, 2019.

BETWEEN:

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE
hereinafter called the "Municipality" of the First Part,

-and-

Bruce County Housing Corporation

hereinafter called the "Owner"
of the Second Part.

WHEREAS the Owner represents that it is the registered owner of those lands in the Municipality of Kincardine, County of Bruce, described in Schedule "A" attached hereto and forming part of this agreement;

AND WHEREAS the parties hereto agree that the lands affected by this agreement are as set out in Schedule "A" attached hereto;

AND WHEREAS the Municipality has enacted a Site Plan Control Area By-Law pursuant to the provisions of Section 41 of the Planning Act, R.S.O., 1990, cap 13, as amended;

AND WHEREAS the Municipality has approved the plans and drawings submitted with the Owner’s application for site plan approval subject to certain conditions and subject to entering into this agreement;

AND WHEREAS the Owner acknowledges that a financial contribution from the Owner to the Municipality will be required in order to carry out development of the facilities, works or matters of concern to the Municipality required to be addressed by this Agreement and its appurtenant Schedules;

AND WHEREAS section 41(10) of the Planning Act, R.S.O., 1990, c.P. 13, as amended, permits the registration of this Agreement against the lands to which it applies in order to secure the provision of works, facilities or matters referred to in the Planning Act and the construction of the development in accordance with the approved plans and drawings;

AND WHEREAS the covenants, agreements, conditions and understandings herein contained on the part of the Owner and the Party of the Third Part, if any, shall run with the land and shall enure to the benefit of and be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns, as the case may be, and shall be appurtenant to the adjoining highways in the ownership of the Municipality.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the approval of the plans for the development on subject parcel of land by the Municipality and the sum of ONE ($1.00) DOLLAR, the receipt of which is hereby admitted, the Owner for himself and for all successors in title, HEREBY AGREES with the Municipality as follows:

PART A – SCHEDULES
1. The following Schedules are attached hereto and form part of this Agreement:
   1.1. Schedule ‘A’ – Description of Land
1.2. Schedule ‘B’ – List of Approved Site Plan Documents
1.3. Schedule ‘C’ – Site Development Requirements

PART B – GENERAL PROVISIONS

2. The parties to this agreement hereby agree that the Owner as herein stated is
the registered owner of those lands described in Schedule “A” to this
agreement and the lands affected by this agreement are as described in
Schedule “A” to this agreement, hereinafter called the “subject lands”.

3. The Owner hereby releases the Municipality, its servants, agents and
contractors from any and all liability in respect of the proper maintenance and
operation of the matters and facilities required by this agreement.

4. The Owner consents and authorizes the registration and/or deposit of this of
this Agreement and any of its Schedules by the Municipality’s Solicitors upon
the title to the “subject lands” in the Registry Office for the County of Bruce,
which shall be at the sole discretion of the Municipality. The Owner agrees to
pay any and all costs associated with the registration and/or depositing of this
Agreement or any other documents pertaining to this Agreement.

5. The Owner will at all times indemnify and save harmless the Municipality on
a solicitor and client basis from all loss, costs and damages which the
Municipality may suffer, be at or be put to, for or by reason of the execution of
this agreement. The Party of the Third Part joins herein to consent hereto and
to bind its interest in the lands hereto.

6. The clauses of this agreement are independent and severable and the
striking down or invalidation of anyone or more of the clauses does not
invalidate all or any of the remaining clauses.

7. Nothing in this agreement shall relieve the Owner from complying with all
applicable municipal requirements.

8. The Owner hereby grants to the Municipality, its servants, agents and
contractors a license to enter the “subject lands” for the purpose of inspection
of the works and the “subject lands” or for any other purpose pursuant to the
rights of the Municipality under this agreement.

9. Once the Municipality of Kincardine has entered into the site plan agreement
with the owner, all subsequent documents binding the Corporation will be
executed by the Mayor and CAO.

10. The Owner agrees to obtain and register, at their own sole cost and expense
a postponement from each encumbrance with a charge registered against
title to the Land (of part thereof) so that notice of this agreement shall be
registered in priority to any such charge.

Further, the mortgagor, if any, agrees that in the event of him assigning or
transferring the mortgage on the lands, the assignment or transfer shall be
subject to the terms hereof in the same manner as if the assignee or
transferee had executed this Agreement.

11. If this agreement becomes null and void, the by-law will be repealed and the
Mayor and CAO shall be authorized to release the agreement.

PART C - SITE DEVELOPMENT AND MAINTENANCE PROVISIONS

12. The Owner agrees to undertake development on the “subject lands”, at its
sole expense, in conformity with the site plan as detailed in Schedule “B”
attached hereto, which shall hereinafter be referred to as the “approved site
plan”.

13. The Owner agrees to provide, install or otherwise abide by, at its sole
expense, the site development requirements as detailed in Schedule “C”
attached hereto.
14. In order to guarantee compliance with all conditions contained within this agreement and to ensure completion of the site works, the owner covenants and agrees to file with the Municipality prior or upon execution of this agreement, a letter of credit in the amount as provided in Schedule ‘C’. This letter of credit shall be based upon the providing security for works and provide sufficient comfort that all site works, including landscaping and all stormwater management works are completed. After completion of all works and receipt of certifications, the securities may be released except for landscaping. Landscaping security will be held for one growing season. Securities may be reduced as the works are completed.

15. The aforesaid letter of credit shall be in a form approved by the Municipality, and the owner covenants and agrees that the said letter of credit shall be kept in full force and effect and that it will pay all premiums as the said letter of credit becomes due or until such time as the Municipality returns the letter of credit. The letter of credit or other security will be released by the Municipality and returned to the Owner upon completion of the works. The Owner hereby acknowledges and agrees that should there be a deficiency in or failure to carry out work or matter required by any clause of this agreement, and the Owner fails to comply within thirty (30) days written notice, with a direction to carry out such work or matter, the Municipality may draw on the letter of credit, the Owner may deposit with the Municipality cash or certified cheque in an amount equal to the letter of credit and such deposit shall be held by the Municipality as security in accordance with this agreement, provided that no interest shall be payable on any said deposit.

16. The Owner agrees that should it fail to complete any of the Works contemplated by this Agreement, the Municipality is under no obligation whatsoever to complete all or any portion of the Works but the Municipality has the right to complete the Works if it chooses to. Notwithstanding the foregoing, the Owner agrees that the Municipality shall, at its sole discretion, have the right to enter onto the Lands to take whatever action it deems necessary to safeguard the health and welfare of the residents of the Municipality including, but without limiting the generality of the foregoing, to disconnecting municipal services, completing or providing interim drainage works, filling in holes, blocking off access, posting signs, grass/weed control and leveling terrain, at the Owner’s expense. The Owner further agrees to indemnify the Municipality, its agents or servants, from any and all claims that may arise as a result of any actions taken by the Municipality pursuant to this clause.

17. 17.1. Upon completion of the development of the “subject lands” in conformity with the provisions of this agreement, the CAO shall issue a certificate of compliance.

17.2. “Certificate of compliance” shall mean a statement of the Municipality as to the completion of the works, matters and facilities required by this agreement and shall not be deemed to certify compliance with any other municipal requirements, regulations, or by-laws, and the Municipality shall not be stopped from pursuing any or all its rights to enforce the continuing obligations of the Owner under this agreement or to enforce any other of the Municipality’s requirements, regulations or by-laws which relate to the subject lands.

18. The Owner hereby acknowledges that failure to complete all required works within the specified time period shall mean a certificate of compliance will not be issued until such work necessary to complete the development is done, and that until such certificate of compliance has been issued, in the event that the prescribed time period has lapsed, the Municipality has the right to refuse issuance of any permit necessary to carry out any additional work on the “subject lands.”
19. All maintenance and repair of facilities and matters required by this agreement shall be done by the Owner from time to time at its sole risk and expense and the Owner agrees the “subject lands” will not impede or prohibit performance of the maintenance provided for in this agreement.

20. The Owner agrees to maintain in good repair and at its sole expense the subject lands” in conformity with the provisions of Schedule “B” (approved site plan) and Schedule “C” (site development requirements), and all other requirements pursuant to this agreement, and all repair or maintenance shall conform with the requirements of this agreement as it applied to the original development.

21. The Owner agrees that all vaults, containers, collection bins and other facilities which may be required for the storage of garbage and other waste material shall be kept within a completely enclosed building or a completely enclosed container in the location as shown on Schedule “B”, and further the Owner is responsible for garbage removal.

The Owner agrees that blue boxes on wheels will be used for recycling and placed curbside to be picked up in conjunction with the municipal recycling program. The Owner agrees to use a minimum of four separate recycling bins in order to separate: paper, glass, plastic and cans, and box board. The Owner agrees to flatten and dispose of corrugated cardboard at the designated depo.

22. The Owner agrees that, at its sole expense, all parking areas provided on the “subject lands” shall, in all circumstances, be reasonably maintained clear of snow so as not to prohibit or block or in any way restrict access along any driveway, walkway for vehicular and pedestrian traffic or reduce the number of useable parking spaces below the minimum number of spaces required by the Municipality’s zoning by-law. The Owner agrees not to store snow on-site such that it blocks visibility adjacent to a street or drainage facilities on-site or where adequate drainage facilities are not provided or where melt water would adversely affect an abutting property.

23. The Owner agrees to maintain at its sole expense and in good repair to the standards acceptable to the Municipality all landscaped open space, private driveways and complementary facilities, and private approach sidewalks which are located on untraveled portions of Municipality-owned road allowances abutting the subject lands.

24. The Owner agrees that all facilities and matters required by this Agreement shall be provided and maintained at its sole risk and expense and to the satisfaction of the Municipality and that in default thereof and in the sole discretion of the Municipality, the Municipality may perform such requirements at the expense of the Owner and such expense may be recovered by the Municipality in like manner as municipal taxes within the meaning of Section 326 of the Municipal Act, R.S.O., 1990, c.M, 45, as amended.

25. The Owner agrees to do the following:

25.1. subject to The Public Transportation and Highway Improvement Act, R.S.O. 1990, facilities, to provide access to and from the lands such as access ramps and curbings and traffic direction signs;

25.2. to dedicate to the Municipality, free and clear of all encumbrances, all Easements and lands required by the Municipality for the construction, maintenance and improvement of any existing or newly required watercourses, ditches, land drainage works and sanitary sewage facilities on the land and, on request by the Municipality, to deliver the properly executed documents in a form that can be registered, to the Municipality in order to complete the dedication to the Municipality and to pay all costs incurred by the Municipality in respect to the aforementioned dedications;
25.3. to, where required by Municipal resolution, dedicate to the Municipality widening of highways that abut on the land described in Schedule “A” attached hereto, free and clear of all encumbrances.

PART D - DEFINITIONS

26. In this Agreement and the Schedules attached hereto:

i. “Building Area” shall mean the only area upon which the erection and use of buildings and structures shall be permitted.

ii. “Land” or “Lands” shall mean the real property, the legal description which is attached hereto as Schedule ‘A’.

iii. "Landscaped Open Space" shall mean the areas of open space comprised of lawn and ornamental shrubs, flowers and trees and may include space occupied by paths, walks, courts, patios but shall not include parking areas, traffic aisles, driveways and ramps.

iv. "Parking Area" shall mean the areas of open space other than a street to be used for the parking of motor vehicles and access ramps and driveways to areas used for the parking of motor vehicles which shall be clear of buildings and structures except those accessory to the operation of the parking area, and which shall be available and maintained for the parking of motor vehicles including maneuvering aisles and other space necessarily incidental to the parking of vehicles.

v. "Natural Open Space" shall mean the areas of open space which are to remain in a natural state with a minimum amount of maintenance, but shall not include areas of outside storage, parking areas, traffic aisles, driveways or ramps, or Building Area, Natural Open Space areas shall be subject to the requirements of the Maintenance and Occupancy (Property Standards) By-Law as amended from time to time for the Municipality and shall be kept clear of all weeds and natural growth which is prohibited by other Municipal by-laws. Areas of Natural Open Space may include areas of Landscaped Open Space.

PART E – SIGNATURES

27. The covenants, agreements, stipulations, declarations and provisions contained herein on the part of the Owner shall run with the lands and shall be binding upon the Owner, its successors and assigns and the benefit thereof shall ensure to the Municipality.

SIGNED, SEALED AND DELIVERED in the presence of

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE

 Mayor – Anne Eadie

 Chief Administrative Officer – Sharon Chambers

 Witness Christine MacDonald – Director of Human Services, County of Bruce

I HAVE AUTHORITY TO BIND THE CORPORATION
Legal Description of subject lands:

Part Lots 16 and 17, Concession A, Kincardine, Parts 1, 2 and 4, 3R10266; Kincardine
The "approved site plan" shall be the plan drawn by the Owner and marked as the "approved site plan", signed by the Municipality's Chief Administrative Officer and signed by the Owner with any changes marked in red and initialed by the Chief Administrative Officer and the Owner. This "approved site plan" shall be filed with the Municipality's Chief Administrative Officer.

C1.0 - Code Plans and Matrix – Allan Avis Architects – July 26, 2019
SD1 – Existing Conditions Plan – GM Blue Plan – October 15, 2019
SD2 – Site Servicing Plan – GM Blue Plan – October 15, 2019
SD3 – South Servicing, Drainage, and Grading Plan – October 15, 2019
SD4 – North Servicing, Drainage, and Grading Plan – GM Blue Plan – October 15, 2019
SD5 – Notes and Details – GM Blue Plan – October 15, 2019
E101 – Site Plan – DEI Consulting Engineers - July 25, 2019
E102 – Details & Legend – DEI Consulting Engineers - July 25, 2019
Traffic Generation Overview – Salvini Consulting – May 17, 2019
Stormwater Management Report – GM Blue Plan – September, 2019
SITE DEVELOPMENT REQUIREMENTS

1. The Owner agrees that the completion date for all work required pursuant to this agreement shall be January 31, 2021 and provide the Municipality with as constructed drawings.

2. The Owner agrees to prepare a grading and drainage plan acceptable to the Municipality and all surface and roof drainage shall be controlled in accordance with the approved plans in a manner satisfactory to the Municipality. Final Grading Certificate completed by a Professional Engineer must be submitted.

3. The Owner agrees that any floodlighting of the land shall be installed in such a manner so as to deflect the light away from adjacent streets and properties or so controlled in intensity so as to prevent glare on adjacent streets and properties.

4. The Owner agrees to ensure during development of the "subject lands" that appropriate devices are installed and measures taken to prevent unreasonable erosion of soil from the site by wind or water, and the Owner agrees to abide by any request of the Municipality's Chief Building Official or Engineer in this regard, acting reasonably.

5. The Owner agrees to ensure that all records relating to testing of municipal water mains and sanitary sewers are provided to the Municipality prior to connection to the Municipal system. The Municipality will conduct Bacteriological sampling for the watermain at the owners expense.

6. The Owner agrees to install temporary fencing or otherwise adequately protect all trees, shrubs and other vegetation which are to be retained, and such fencing shall be located not closer to any trees than the drip line of such trees, and the Owner agrees to abide by the requirements of the Municipality's Director or Public Works in this regard, acting reasonably.

7. The Owner agrees that any internal driveways which are necessary for, and designated as, a fire route shall be so designed so as to carry the weight of the Municipality’s fire fighting equipment and as per the Ontario Building Code.

8. The Owner agrees to provide all landscaping as shown on the "approved site plan". All plantings shall be installed to the specifications and requirements as indicated on the "approved site plan".

9. The Owner agrees that the site and building shall be designed so as to provide unobstructed access for wheelchairs to at least one main building entrance from the public sidewalk/street and one parking area by use of sidewalk ramps of proper gradient and surfacing.

10. The Owner agrees to appropriately and properly finish all lands lying between the "subject lands" and any and all abutting streets, which, without limiting the generality of the foregoing shall include the following:

   i. landscaping of lands lying between the street line and property line not to be used for vehicular or pedestrian entrances with topsoil and sod/seed.

   ii. installation of driveways of proper width and grade from the street line to the property line with asphalt, concrete or other hard surfaced acceptable to the Municipality's Engineer.
11. The Owner agrees to obtain a building permit within six (6) months from the date of this agreement. Failure to obtain a building permit within the prescribed time period shall mean this agreement is null and void.

12. The Owner agrees that all driveways and parking areas as indicated on the "approved site plan" shall be surfaced with asphalt, cement, or other hard surfacing acceptable to the Municipality's Engineer.

13. As part of its ongoing obligations on the site the developer acknowledges that the stormwater management facilities, catch basins and manholes will require maintenance. The owner agrees to maintain, clean, repair or if needed replace the basins and other storm water management works to ensure the integrity of its operation. The owner further agrees that the Municipality or its agents will have the right to inspect and assess storm water management works and order the developer to comply with its maintenance obligations.

14. A geotechnical engineer shall provide a letter to SVCA’s satisfaction advising the proposed development is located outside the erosion hazard associated with the adjacent river valley.

15. The owner acknowledges that the easement on the north of the lands is subject to drainage and no development is to be placed on the easement. Revised drawings are to be submitted to the Municipality for approval prior to construction.

16. The owner acknowledges that the site is serviced by a temporary storm water management facility that outlets to a servicing easement to the south. The permanent outlet will be in a new stormwater facility on the adjacent property to the south. The developer agrees and understands that they will be assessed a share of the cost of the construction of the Stormwater Management Facility required to service all the lands. As part of the full design of the optioned OFP lands, the developer agrees and understands that they will be required to revise their outlet as necessary to properly provide an outlet to communal stormwater management facility, all at the owner's expense.

17. The owner acknowledges that the culvert has only been conceptually sized to convey a large runoff capacity. As part of the full design of the optioned OFP Lands, the developer agrees and understands that they will be required to revise the culvert size, and/or raise as necessary to work with the off-site design. Any change would also require revising the sanitary and water servicing accordingly at the owner's expense.

18. A temporary roadway into the development in the fall of 2019, will be permitted. The contactor will be informed that the final culvert and sanitary and water servicing cannot be installed until the spring of 2020 to deal with future adjustments or any revisions being made as the project moves forward regarding stormwater management.

19. As per Section 14 of the agreement the owner agrees to provide securities for on-site servicing (water, sewer, stormwater) in the amount of $100,000.

20. Development is exempt from Development Charges By-law 2016-080 and 2019-048 as per Development Charges Act, 1997

21. Development is exempt from Parkland Dedication By-law 2014-058

22. The Municipality's Chief Administrative Officer may agree in writing to minor variations to provisions of this agreement. Please note that all major variations must be approved by Council in the form of a Site Plan amendment to this agreement.