



TO:	GENERAL COMMITTEE
SUBJECT:	PROPERTY TRANSACTIONS TO ALTER HIP DEVELOPMENTS AND CITY PROPERTY OWNERSHIP
WARD:	2
PREPARED BY AND KEY CONTACT:	A. MILLS, MANAGER OF LEGAL SERVICES, EXTENSION #5051
SUBMITTED BY:	A. BOURRIE, DIRECTOR OF PLANNING AND BUILDING SERVICES I. PETERS, DIRECTOR OF LEGAL SERVICES
GENERAL MANAGER APPROVAL:	D. FRIARY, ACTING GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT
CHIEF ADMINISTRATIVE OFFICER APPROVAL:	M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That notwithstanding the provisions of By-law 95-104, the Corporation of the City of Barrie (the "City") sell the properties shown on Appendices "A" and "B" to Staff Report LGL008-18 to HIP Barrie Central Inc. ("HIP") or an affiliated company in accordance with the terms of agreements of purchase and sale substantially in the form of the attached Appendices "C" and "D" to Staff Report LGL008-18.
2. That the City purchase the property shown on Appendix "E" to Staff Report LGL008-18 in accordance with the terms of an agreement of purchase and sale substantially in the form of the attached Appendix "F" to Staff Report LGL008-18.
3. That the Director of Legal Services be authorized to commence expropriation proceedings to acquire the property shown on Appendix "G" to Staff Report LGL008-18 in order that it may be subsequently transferred to HIP for redevelopment purposes in accordance with the terms of an agreement of purchase and sale substantially in accordance with the terms described in paragraph 17 of Staff Report LGL008-18.
4. That the Chief Administrative Officer be authorized to approve the final terms of the agreements of purchase and sale referred to in paragraphs 1, 2 and 3 in a form satisfactory to the Director of Legal Services.
5. That the City make an application to City Council, as approving authority, for approval to expropriate the property and that the City Clerk be authorized to execute the necessary forms of application.
6. That the "Notice of Application for Approval to Expropriate" be served and published and that any requests for inquiries received, pursuant to the "Notice of Application for Approval to Expropriate" be forwarded to the Chief Inquiry Officer and that the Chief Inquiry Officer be requested to report to City Council with respect to any such request.
7. That the Director of Legal Services be delegated authority to settle the expropriation or any negotiated agreement.

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8. That all conditions related to Council Approval of the agreements of purchase and sale referred to in paragraphs 1, 2 and 3 (the "Agreements") be removed in accordance with paragraph 11 of Staff Report LGL008-18.
 9. That all conditions related to the Due Diligence Period contained in the Agreements be removed subject to the satisfaction of the Director of Corporate Facilities and the Chief Administrative Officer.
 10. That notwithstanding the provisions of By-law 95-104, the property shown on Appendix "G" to Staff Report LGL008-18 be declared surplus to the needs of the City immediately following the City taking title and possession to it and transferred to HIP or an affiliated company.
 11. That the Mayor and City Clerk be authorized to execute all associated and required documents in a form approved by the Director of Legal Services necessary to:
 - a) Remove any conditions or change any term contained in the Agreements;
 - b) Completing the transfer of properties identified in the Agreements; and
 - c) Completing the expropriation and subsequent transfer of the property to HIP.
 12. That staff be directed to take the following steps, in the order identified below, related to the potential inclusion of the YMCA on the property shown on Appendix "E" to Staff Report LGL008-18:
 - a) Prepare a preliminary site plan for the Fisher Auditorium and Events Centre re-use on the property to be acquired from HIP;
 - b) Provide a detailed plan for the overland watercourse at this location in order to be able to scope available or remaining property for potential YMCA use; and
 - c) Undertake discussions with the YMCA concerning possible use by the YMCA of property surplus to the City's needs and subsequently report back to General Committee with a staff report seeking further direction.
 13. That the budget of Capital Project #000633 (Fisher Auditorium Redevelopment) be increased by \$200,000 to address costs associated with completing the transactions, to be funded from the Council Strategic Priority Reserve (1304-0410) and any funds not required be returned to the Reserve.
 14. That a portion of the allocated funds previously approved by Council for Capital Project #000633 (Fisher Auditorium Redevelopment) be used to conduct property due diligence activities such as survey, geotechnical, environmental and archaeological investigations.

PURPOSE & BACKGROUND

15. The purpose of this staff report is to request approval to proceed with the disposition of City owned properties, acquisition of a HIP owned property and expropriate a privately owned property to be transferred to HIP in order to adjust both parties property holdings and achieve the City's objective of securing Fisher Auditorium and a sufficient area of surrounding property to enable its redevelopment.

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16. On October 23, 2017, City Council adopted Motion 17-G-247 regarding BARRIE CENTRAL REALIGNED LAND OWNERSHIP AND LAND USE CONCEPT (WARD 2) as follows:
1. That the properties municipally known as Red Storey Field and 34, 36, 38 and 40 Bradford Street being part of PIN 587970003 and all of PINS 587970008, 587970009, 587970010 and 587970011 as identified in Appendix "A" to Staff Report PLN034-17, be declared surplus to the needs of The Corporation of the City of Barrie in accordance with By-law 95-104.
 2. That notwithstanding the provisions of By-law 95-104, staff in Planning and Building Services and Legal Services continue to negotiate appropriate agreements exclusively with HIP Developments (HIP) to facilitate the realigned land ownership as illustrated in Appendix "A" to Staff Report PLN034-17.
 3. That staff in Planning and Building Services and Legal Services utilize the following principles in negotiations to achieve the proposed realigned land ownership:
 - a) Agreement(s) of land purchase and sale based on fair market value as determined by a professionally prepared appraisal, acceptable to the City;
 - b) Other required infrastructure (ie: Fisher building shell, parking, Kidd's Creek drainage solution) necessary to achieve the desired comprehensive development vision, be appropriately valued and included in the negotiation process, as appropriate;
 - c) The City's purchase decision shall not be tied to development concepts for lands to be owned by HIP;
 - d) Closing of any agreement of land purchase and sale shall be dependent on Council's final acceptance of a business case for development and operation of W.A. Fisher Auditorium and Event Centre and a binding ground lease with YMCA; and
 - e) The Kidd's Creek drainage solution be professionally designed and approved by the City and Lake Simcoe Region Conservation Authority (LSRCA) and other regulatory agencies as required.
 4. That the Mayor and City Clerk be authorized to execute Agreements of Purchase and Sale conditional upon Council approval and any related document or Agreement necessary to achieving the recommended motion.
 5. That HIP be permitted to submit planning applications on City owned land, subject to Council approval of a conditional Agreement of Purchase and sale, subject to such applications meeting the requirements of the Director of Planning and Building Services and the Director of Legal Services. (PLN034-17) (File: D18-BAR)

ANALYSIS

17. Staff engaged in several rounds of negotiations with HIP for each of the properties shown on Appendix "A", "B", "E" and "G". The result of these negotiations formed the basis of the Agreements which are summarized as follows:

Red Storey Field - 1.465 Hectares

- The agreement has a purchase price of \$5,259,000 (HIP purchase from City);

- The property was appraised by an external appraiser which estimated value to be in the range of \$4,835,000 to \$5,054,000;
- The purchase price exceeds the midpoint of the appraised value by \$315,000;
- The agreement is conditional upon Council approval, due diligence investigations of soil conditions and the simultaneous completion of all the Agreements.

34, 36, 38 & 40 Bradford Street- 0.215 Hectares

- The agreement has a purchase price of \$955,000 (HIP purchase from City);
- The property was appraised by an external appraiser which estimated value to be in the range of \$920,000 to \$990,000;
- The purchase price equals the midpoint of the appraised value;
- The agreement is conditional upon Council approval, due diligence investigations of soil conditions and the simultaneous completion of all the Agreements.

Fisher Auditorium - 1.784 Hectares

- The agreement has a purchase price of \$6,214,000 (City purchase from HIP);
- The property was appraised by an external appraiser which estimated value for property outside of the floodplain to be \$2,906,000 per Hectare and property within the floodplain to be \$1,453,000 per Hectare;
- The area of the property to be purchased consists of approximately 0.935 Hectares outside of the floodplain and 0.849 Hectares within the floodplain and equates to an appraised value of \$3,951,000;
- In addition to the appraised value of the property, staff have attributed a value to Fisher Auditorium of \$1,234,000;
- The purchase price exceeds the appraisal value by \$1,029,000;
- The agreement is conditional upon Council approval, due diligence investigations of soil conditions and the simultaneous completion of all the Agreements.

44 Bradford Street - 0.107 Hectares

- The City will agree to expropriate 44 Bradford Street in accordance with this Staff Report, subject to HIP's commitment to indemnify the City for:
 - all external costs associated with the expropriation; and
 - Compensation payable to the owners of 44 Bradford Street as may be negotiated, settled or ordered as part of the expropriation.

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- HIP will provide the City with a letter of credit satisfactory to the City to secure the costs associated with the expropriation and payment of compensation to the owners of 44 Bradford Street pursuant to the expropriation;
 - HIP will also provide the City with an initial payment of fifty-thousand dollars to cover the costs of internal staff time and resources associated with initiating the expropriation;
 - The agreement is conditional upon Council approval and the simultaneous completion of all the Agreements.
18. The purchase price contained in the Agreements results in the City receiving \$714,000 less than appraised value when using the midpoint value of the appraisals for Red Storey Field and 34, 36, 38 & 40 Bradford Street and appraised value for the Fisher Auditorium property and staff estimate of value attributable to the Fisher Auditorium structure.
19. A key term of the Agreements that resulted in extensive negotiation was the timeframe associated with the City taking title by way of expropriation to 44 Bradford Street and subsequent transfer of it to HIP. The City is unable to commit to a firm date. The solution was to make all of the Agreements conditional upon the City taking title and possession to 44 Bradford Street.
20. The Agreements with the exception of 44 Bradford Street are also conditional upon the Buyer being satisfied with the results of their due diligence investigations with respect to soil conditions, environmental and archaeological assessments and development feasibility. These conditions must be satisfied within 120 days following removal of the Council approval conditions.
21. Kidd's Creek Drainage Solution
- The City has worked with the LSRCA to develop initial concepts for the realignment of Kidd's Creek and channel design. This collaboration will continue as the detailed design progresses and the appropriate permits are requested and obtained. During the initial discussions, all parties did conclude that through the proposed realignment of Kidd's Creek, the surrounding property constrained by floodplain could be reduced depending on the proposed future grading on the site.
- The project to realign Kidd's Creek is included in the 2018-2027 capital plan as project EN1071 Dunlop Street West ROW Replacement – Eccles to Toronto, with construction forecast for 2019 and 2020. It is anticipated that through the 2019 capital planning process, the construction funds will be requested for approval for 2019 and 2020. The cost of this project will be the City's, given the property encompassing this portion of Kidd's Creek will be in City ownership when the construction commences.
22. Parking for Fisher Auditorium
- Parking requirements will be confirmed once the final Fisher building/programming is known and once other uses on the property are confirmed. It is expected that in addition to on-site parking, off-site parking will be required. Staff have been working on a potential parking design in close proximity to Fisher, involving property that will be part of the broader Kidd's Creek drainage solution. Details are not available until the Creek design work are complete however staff are confident that this location is a viable option for at least part of the parking requirement.

23. Road Network

At this time, the existing road network is Dunlop Street and Bradford Street. Until an integrated site plan is known and development applications are filed by HIP for their proposed residential development, it is unknown whether or not additional local roads, internal to or abutting HIP's property will be required. Allowance for a local road has been accounted for in preliminary site design discussions by City staff, YMCA and HIP. Final determination of the need for, location and design of additional roads will occur at the development application stage.

24. YMCA Status

City Staff have sought input from the YMCA with respect to the vision for their new facility in the downtown. This input will inform City staff recommendations on a preliminary site plan for the property to be acquired from HIP. Once additional information with respect to the Kidd's Creek drainage solution and the property transactions with HIP are finalized, discussions with the YMCA can turn to the potential lease or purchase options for the property to be occupied by the YMCA.

25. Community Benefit

The difference between appraised value and purchase price for the acquisition of Fisher Auditorium and the associated property can be defined as a form of community benefit. The benefit to the community is the opportunity to retain an important building and cultural asset, Fisher Auditorium and repurpose it for long-term use as a theatre and event centre. In addition, the City benefits from the ability to own and develop property with frontage along Dunlop Street at High Street, an important gateway to downtown. Without control of this property, the community hub and gateway vision for this area would be challenging to achieve.

ENVIRONMENTAL MATTERS

26. The following environmental matters have been considered in the development of the recommendation:
- a) As part of the City's soil condition investigations, the environmental status of the Fisher Auditorium property will be investigated to the satisfaction of the Director of Facilities and Chief Administrative Officer.

ALTERNATIVES

27. The following alternatives are available for consideration by General Committee:

Alternative #1

General Committee could direct staff to continue negotiating with HIP in order that a more favourable deal for the City be achieved.

This alternative is not recommended as HIP has indicated they are unwilling to negotiate further on property area or purchase price and as such staff are of the opinion that no further concessions will be gained from HIP.

Alternative #2

General Committee could direct staff to commence expropriation proceeding to acquire Fisher Auditorium and surrounding.

This alternative is not recommended as staff are of the opinion that an expropriation would result in a cost to the City that would likely exceed the identified overall shortfall contained in the Agreements.

FINANCIAL

28. That the budget of Capital Project #000633 (Fisher Auditorium Redevelopment) be increased by \$200,000 to address costs associated with completing the transactions such as land transfer tax, legal and survey, to be funded from the Council Strategic Priority Reserve (1304-0410) and any funds not required be returned to the Reserve.
29. That a portion of the allocated funds previously approved by Council for Capital Project #000633 (Fisher Auditorium Redevelopment) be used to conduct property due diligence activities such as survey, geotechnical, environmental and archaeological investigations.

LINKAGE TO 2014-2018 STRATEGIC PLAN

30. The recommendation(s) included in this Staff Report are not specifically related to the goals identified in the 2014-2018 Strategic Plan.

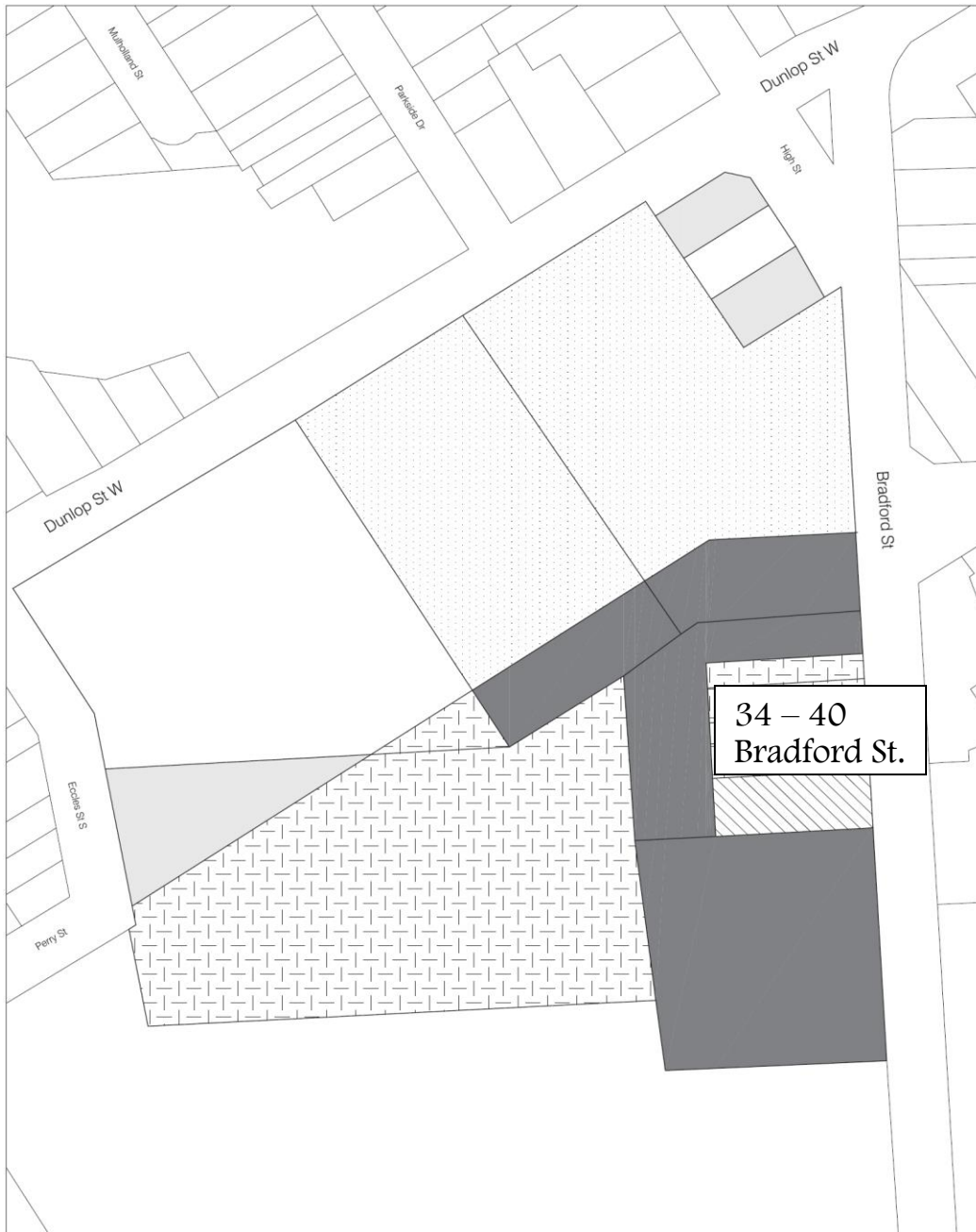
APPENDIX "A"

Red Story Field - 1.465 Hectares of Property



APPENDIX "B"

34, 36, 38 & 40 Bradford Street - 0.215 Hectares of Property



-  City Lands stays in City Ownership
-  City Lands to HIP
-  HIP Lands stays in HIP Ownership
-  HIP Lands to City
-  Privately Owned Land to be Acquired by the City





APPENDIX "C"

Red Story Field – Agreement of Purchase and Sale



FIELD LANDS

AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)

BUYER: HIP Barrie Central Inc. agrees to purchase from
(Full legal names of all Buyers)

SELLER: The Corporation of the City of Barrie the following
(Full legal names of all Sellers)

REAL PROPERTY:

Address: Part of 155 Dunlop Street West

in the City of Barrie

and having a frontage of TBD more or less by a depth of TBD more or less and legally described as

Part of PIN 587970003, as approximately shown on Schedule "B", to be described by Reference Plan and
deposited at the Land Registry Office ("the Property").

(Legal description of land including easements not described elsewhere)

PURCHASE PRICE: Five Million Two Hundred and Fifty Nine Thousand Dollars (CDN) \$ 5,259,000.00

DEPOSIT: Buyer submits (Upon Acceptance) One Dollar Dollars (CDN) \$ 1.00

By negotiable cheque payable to the Seller to be held in trust without interest pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. Buyer agrees to pay the balance as follows:

On closing, the balance of the purchase price, subject to the adjustments described herein, by cash or certified cheque to the Seller or as the Seller may direct.

SCHEDULE(S) "A"& "B" attached hereto form(s) part of this Agreement.



- CHATELS INCLUDED: NONE
- FIXTURES EXCLUDED: NONE
- RENTAL ITEMS: The following equipment is rented and not included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:
- IRREVOCABILITY: This Offer shall be irrevocable by the Seller until 4:00 p.m. on the day of 2018 after which time, if not accepted, the Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.
- COMPLETION DATE: This Agreement shall be completed by no later than 6:00 pm. on the day of (SEE SCHEDULE "A") 2018. Upon completion, vacant possession of the Property shall be given to the Buyer unless otherwise provided for in this Agreement.
- NOTICES: Any notice relating hereto or provided for herein shall be in writing. This offer, any counter offer, notice of acceptance thereof, or any notice shall be deemed given and received, when hand delivered to the address for service provided in the Acknowledgement below, or where a facsimile number is provided herein, when transmitted electronically to that facsimile number.
- FAX No. (705) 739-4278 (For delivery of notices to Seller) FAX No. (519) 886-8898 (For delivery of notices to Buyer)
- HST: If this transaction is subject to Harmonized Sales Tax (H.S.T.), then such tax shall be in addition to the Purchase Price. (included in/in addition to) If this transaction is not subject to H.S.T., Seller agrees to certify, on or before closing that the transaction is not subject to H.S.T.
- TITLE SEARCH: Buyer shall be allowed until 6:00 p.m. 30 days prior to the Completion Date (Requisition Date) to examine the title to the Property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or, (ii) five days prior to completion, to satisfy himself that there are no outstanding work orders or deficiency notices affecting the Property, that its present use (Vacant Land) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality other governmental agencies releasing to Buyer details of all outstanding work orders affecting the Property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.
- FUTURE USE: Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the Property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.
- TITLE: Provided that the title to the Property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been compiled with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the Property or adjacent properties; and (d) any easement for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the Property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact that said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance and except against risk of fire in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Broker and Co-operating Broker shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the Property.
- CLOSING ARRANGEMENTS: Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part 111 of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electric Registration Act, S.O. 1991, Chapter 44, and any amendments thereto the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and 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 Requisite Deliveries will required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers, the form of which is as recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
- DOCUMENTS AND DISCHARGE: Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the Property except such as are in the possession or control of Seller. If required by Buyer, Seller will deliver any sketch or survey of the Property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a

INITIALS OF BUYER(S): INITIALS OF SELLER(S):

- discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust and Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, prepared by the mortgagee setting out the balance required to obtain the discharge, together with a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
13. **INSPECTION: Buyer acknowledges having had the opportunity to inspect the Property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller.**
14. **INSURANCE:** All buildings on the Property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.
15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the Property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
16. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50 (22) of the Planning Act, R.S.O. 1990.
17. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
18. **ADJUSTMENTS:** Any rents, mortgage interest, reality taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself be apportioned to Buyer.
19. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing and completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
20. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.
21. **FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under provisions of the Family Law Act, R.S.O. 1990 unless Seller's spouse has executed the consent, hereinafter provided.
22. **UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the Property, Seller has not caused any building on the Property to be insulated with insulation containing urea formaldehyde, and that to the best of Seller's knowledge no building on the Property contains or has ever contained insulation that contains urea formaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is subject of this transaction.
23. **CONSUMER REPORTS: The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.**
24. **AGENCY:** It is understood that the brokers involved in the transaction represent the parties as set out in the Confirmation of Representation below.
25. **AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision written or typed in this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition which affects this Agreement other than as expressed herein. This Agreement shall be read with all changes of gender or number required by the context.
26. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.


DATED at _____ this _____ day of _____, 2018
SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

The Corporation of the City of Barrie

_____ (Witness)	_____ (Seller)	 (Seal)	DATE: _____
	Name: Jeff Lehman Title: Mayor I have authority to bind the Corporation		
_____ (Witness)	_____ (Seller)	 (Seal)	DATE: _____
	Name: Wendy Cook Title: City Clerk I have authority to bind the Corporation		

DATED at _____ this _____ day of _____, 2018
SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

HIP BARRIE CENTRAL INC.

_____ (Witness)	_____ (Buyer)	 (Seal)	DATE: _____
	Name: Title: I have authority to bind the Corporation		

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



**SCHEDULE “A” TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)**

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: HIP Barrie Central Inc. and

SELLER: The Corporation of the City of Barrie

For the purchase and sale of: Part of PIN 587970003, as approximately shown on Schedule “B”, to be described by Reference Plan and deposited at the Land Registry Office

1. Amendments to the printed form to which this schedule is attached:

(a) The time noted in Clause 5 and 8 of the printed form to which this schedule is attached is amended to 4:00 p.m. rather than 6:00 p.m.
2. The Buyer and Seller agree to adjust the Property area on the basis of a deposited reference plan that delineates the Property as identified on Schedule “B” such that the total area of the Property equates to 14,649 square metres.
3. This Agreement of Purchase and Sale is conditional upon the following:

(a) The Council of The Corporation of the City of Barrie approving of this Agreement of Purchase and Sale.

(b) The Council of The Corporation of the City of Barrie approving of a separate Agreement of Purchase and Sale for the Buyer’s property being part of PIN 587970085 (Former Barrie Central Collegiate) (the “**Auditorium Lands APS**”).

(c) The Council of The Corporation of the City of Barrie approving of a separate Agreement of Purchase and Sale for the Seller’s property being 34, 36, 38 & 40 Bradford Street (the “**House Lands APS**”).

(d) The Council of The Corporation of the City of Barrie approving of a separate Agreement of Purchase and Sale for the property located at 44 Bradford Street (the “**44 Bradford APS**”).

Unless the Seller gives notice in writing delivered to the Buyer, that these conditions have been fulfilled, satisfactory to the Chief Administrative Officer, on or before 4:00 pm of the 90th day following acceptance, this Offer shall become null and void and the deposit shall be returned to the Buyer forthwith in full without deduction.

The Seller and Buyer agree that all conditions are true conditions precedent and as a result it is in the sole and absolute discretion of the Seller to determine whether or not they wish to waive any condition or not, and no action on their part can be deemed a waiver by the Seller except a written waiver of the condition.

4. This Agreement of Purchase and Sale is conditional upon the following for a period of 120 days following the removal of the conditions pertaining to Council approval set out in Section 3 (the “**Due Diligence Period**”):

(a) The Buyer determining at its own expense, that the Property does not contain a habitat or critical habitat as defined in the Species at Risk Act, SC 2002, C29, nor a habitat as defined in the Endangered Species Act, 2007 S.O. 2007, C6 which could unreasonably restrict the development of the Property.

(b) The Buyer satisfying itself that the zoning for the Property will permit its proposed mixed use residential development (the “**Proposed Development**”).

(c) The Buyer satisfying itself that there is sufficient access from and onto the Property in order to permit the Proposed Development.

- (d) The Buyer satisfying itself of the suitability of the sub-surface soil conditions and environmental and archaeological assessments of the Property. The Seller acknowledges that once the Buyer has completed all of their soils testing and has disclosed any possible soils issues to the Seller then notwithstanding that it may be possible for the soils issue to be remediated, the Buyer in their sole and unfettered discretion shall have the right to decide whether or not to waive this condition and the cost of remediation shall not necessarily be a factor that must be considered by the Buyer in deciding whether or not to waive this condition.
- (e) The Buyer satisfying itself that any approval or permit required for the Proposed Development and all servicing can be acquired without unreasonable cost.
- (f) The Buyer satisfying itself of the feasibility of the Proposed Development.

Unless the Buyer gives notice in writing delivered to the Seller that these conditions have been fulfilled on or before 4:00 pm on the last day of the Due Diligence Period, this Offer shall become null and void and the deposit shall be returned to the Buyer forthwith in full without deduction.

The Seller and Buyer agree that all conditions are true conditions precedent and as a result it is in the sole and absolute discretion of the Buyer to determine whether or not they wish to waive any condition or not, and no action on their part can be deemed a waiver by the Buyer except a written waiver of the condition.

- 5. This Agreement is conditional upon the Purchaser obtaining title and possession to lands known municipally as 44 Bradford Street, Barrie, ON, ("44 Bradford") on or before December 31, 2019. If the Purchaser is unable to obtain title and possession to 44 Bradford prior to December 31, 2019, this Agreement shall be null and void and the deposit shall be returned to the Purchaser.
- 6. Completion of this Agreement of Purchase and Sale is conditional upon the simultaneous completion of the transactions contemplated by the Auditorium Lands APS and the House Lands APS. Such condition is for the benefit of both the Seller and the Buyer and failing waiver of such condition in writing, this agreement shall become null and void and the deposit shall be returned to the Buyer forthwith in full without deduction.

The Seller and Buyer agree that all conditions are true conditions precedent and as a result it is in the sole and absolute discretion of the Buyer and Seller to determine whether or not they wish to waive any condition or not, and no action on their part can be deemed a waiver by the either party except a written waiver of the condition.

- 7. The Seller represents and warrants that:
 - (a) There is no claim or litigation pending, or to the knowledge of the Seller, threatened with respect to the Seller, the Property, or the occupancy, use or development of the Property by the Seller which could affect the right of the Buyer to own, occupy or develop the Property or the ability of the Seller to perform its obligations under this agreement.
 - (b) There are no leases, licences or other agreements or contracts whatsoever relating to or affecting the Property in any manner which will survive closing and the Seller covenants and agrees that it shall not enter into any contract in respect of the Property which will survive closing without the Buyer's prior written consent.
 - (c) No notice of any pending expropriation from any governmental authority, agency, department or board having jurisdiction over the Property has been issued or remains outstanding.
 - (d) There are not now and will not be on the completion date, any outstanding or pending work orders, or any notices of existing, pending or threatened orders, directives or other requirements or proceedings arising out of the condition of the Property or the violations of any environmental, health or safety statutes, regulations, by-laws or rules of any governmental authority. If any such orders, directives or other requirements do arise following acceptance of this Agreement and prior to the Closing, the Seller shall attend to such work as is necessary to remove or satisfy the order, directive or other requirement provided that if the cost to remove such order is greater than \$100,000.00, the Seller may choose not to complete the work necessary and the Buyer shall, at its option (i) complete the transaction with a reduction in the Purchase Price equal to the cost to remove such order or (ii) terminate the Agreement of Purchase and Sale.
 - (e) The Seller will keep the Property free of all noxious weeds until the completion date in compliance with all municipal legislation.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



- (f) On the completion date there will be no registered restrictions, covenants, easements or rights of way that run with the Property except as disclosed by registered title as at the date hereof or has been registered with the consent of the Buyer, such consent not to be unreasonably withheld, delayed or conditioned..
8. Prior to the completion date, the Seller shall provide a certificate confirming the representations and warranties in this Agreement are true and correct and will be as of the completion date.
9. In the event this Agreement of Purchase and Sale is terminated, the Buyer agrees to provide the Seller with copies of all reports prepared by third parties in connection with the Buyer's due diligence of the Property, including, any soils, geotechnical, environmental and archaeological reports arising from the investigations.
10. The Seller hereby consents to local and regional municipalities, the Province or any other governmental authority having jurisdiction releasing to the Buyer details of all outstanding municipal or other compliance or work orders or deficiency notices affecting the Property and/or such information related to the Property as is in their respective files and the Seller agrees to promptly execute and deliver to the Buyer such further authorizations in this regard as the Buyer may reasonably require.
11. The Seller agrees to indemnify and save harmless the Buyer for any loss suffered in relation to a breach by the Seller of any warranty contained herein provided that such indemnity shall not exceed the purchase price set out herein.
12. None of the said provisions in this Agreement of Purchase and Sale shall merge on the completion date of the transaction and thereafter shall continue to be in full force and effect with time continuing to be of the essence. Notwithstanding the foregoing, the Seller's representations and warranties herein shall merge on the 2nd anniversary of the Closing. The Seller agrees to provide to the Buyer on the completion date a duly executed Non-merger Agreement with wording to the satisfaction of the Buyer.
13. The Buyer and its representatives shall be entitled to enter upon the Property at any time prior to closing, on 48 hours notice to the Seller in order to inspect same, check elevations, conduct soil tests, prepare surveys, conduct investigations and for any other purpose necessary or incidental to the completion of the Buyer's due diligence, at its own expense, provided that in so doing, no damage is done to the Property and in the event of any damage, the Buyer shall attend to the immediate repair thereof. This obligation shall survive the termination of this Agreement for a period of ninety (90) days.
14. The Seller agrees to provide to the Buyer all documents, records, and reports relating to the Property including, without limitation, those dealing with environmental matters that are in the possession of the Seller. The Seller further authorizes the Ministry of Environment, to release to the Buyer, any and all information that may be on record in the Ministry's office with respect to the Property. If a written authorization to release any record is required the Seller agrees to provide such to the Buyer forthwith.
15. This transaction shall close on or before 30 days following the removal of the final condition to be satisfied in each of this Agreement, the Auditorium Lands APS, the House Lands APS and the 44 Bradford APS.
16. Following the waiver of conditions contained in Sections 3 and 4 of this Schedule "A", the Seller agrees to provide its written consent to all reasonable requests, without charge and without payment, in connection with all official plan and zoning amendments, site plan applications, minor variance applications or other similar type of applications. To the extent that the City of Barrie or other governmental or quasi-governmental bodies requires any specific authorizations in connection with the foregoing or in connection with any pre-consultation or consultation processes the Seller agrees to provide same. All of the foregoing applications and processes being at the Buyer's sole expense and provided further that the Seller will not be required to give any positive covenants and that the Seller is not required to pay any levies or any other financial obligations imposed by any party under the foregoing. Seller shall provide a response to any of the Buyer's requests within seven (7) days of receipt of the request.

INITIALS OF BUYER(S):




INITIALS OF SELLER(S):



17. The Buyer covenants and agrees that it will be responsible for and pay any HST payable in connection with the Transaction. The Buyer shall be entitled to self-assess in accordance with the provisions of the *Excise Tax Act* (Canada) with respect to such HST and shall indemnify and save harmless the Seller with respect to the payment of HST. Provided further that the Buyer shall deliver, prior to Closing, its certificate confirming that (i) the Buyer is a registrant under the *Excise Tax Act* (Canada), together with its HST registration number, (ii) such registered number is in good standing and has not been varied or revoked, (iii) the Property being purchased by the Buyer as principal for its own account and are not being purchased by the Buyer as an agent, trustee or otherwise on behalf of or for another Buyer, (iv) the Buyer shall be liable for, shall self-assess and shall remit to the appropriate government authority all HST payable in respect of the Transaction and (v) the Buyer will indemnify and save harmless the Seller from any HST, penalty, interest or other amount which may be payable by or be assessed against the Seller under the ETA as a result of or in connection with the Seller's failure to collect and remit any HST applicable on the sale and conveyance of the Property to the Buyer by the Seller. In the event that the Buyer shall fail to deliver such certificate, declaration and indemnity, then the Buyer shall pay to the Seller, in addition to the Purchase Price, in pursuance of Buyer's obligation to pay and Seller's obligation to collect HST under the provisions of the *Excise Tax Act* (Canada), an amount equal to thirteen per cent (13%) of the Purchase Price.

INITIALS OF BUYER(S): 

INITIALS OF SELLER(S): 

SCHEDULE “B” TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)

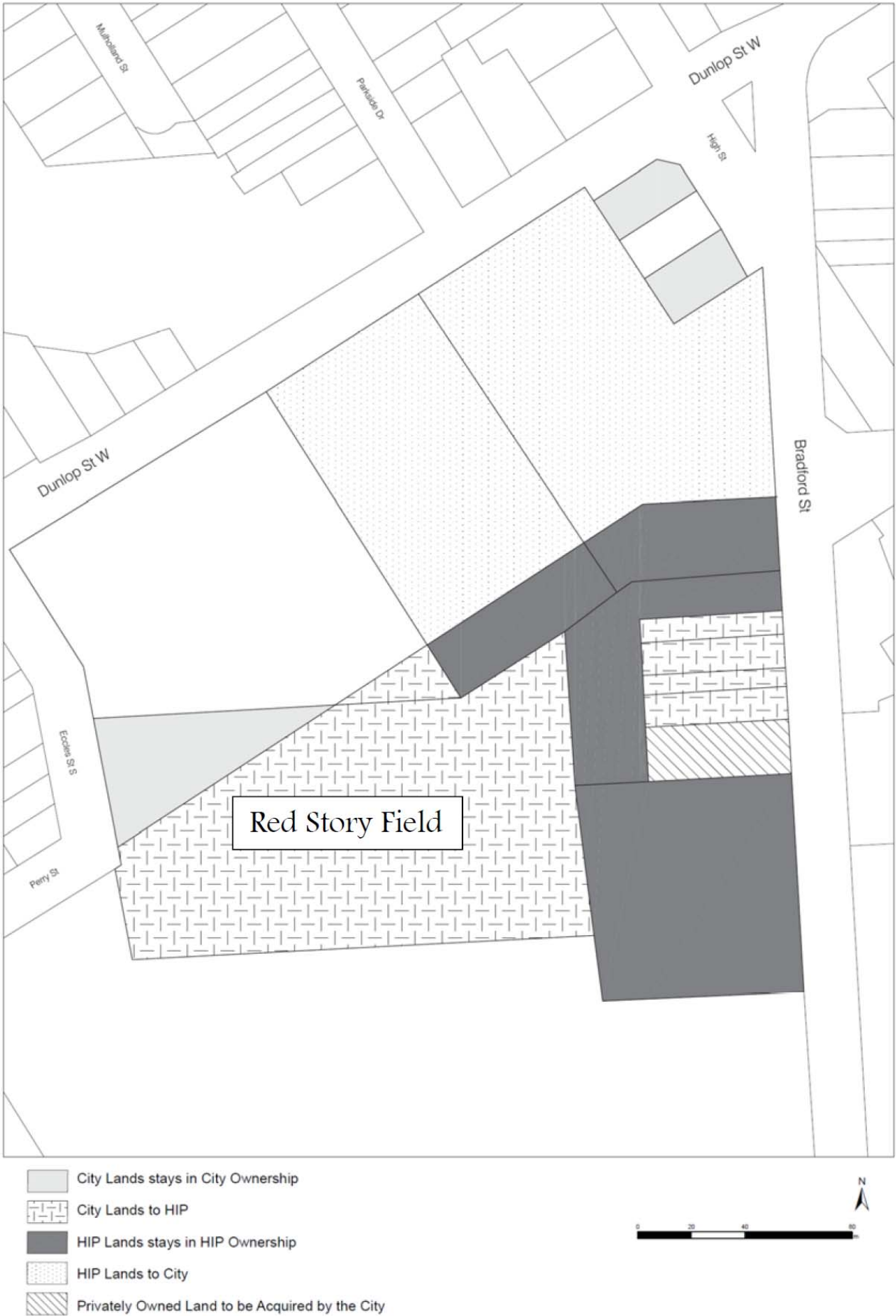
This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: HIP Barrie Central Inc._____and

SELLER: The Corporation of the City of Barrie_____

For the purchase and sale of: Part of PIN 587970003, as approximately shown on Schedule “B”, to be described by Reference Plan and deposited at the Land Registry Office_____

The Property



INITIALS OF BUYER(S): INITIALS OF SELLER(S):



APPENDIX "D"

34, 36, 38 & 40 Bradford Street - Agreement of Purchase and Sale



**AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)**

BUYER: HIP Barrie Central Inc. agrees to purchase from _____
(Full legal names of all Buyers)

SELLER: The Corporation of the City of Barrie the following _____
(Full legal names of all Sellers)

REAL PROPERTY:

Address: 34, 36, 38, & 40 Bradford Street

in the City of Barrie

and having a frontage of TBD more or less by a depth of TBD more or less and legally described as

on Schedule “B” and shown on Schedule “C” (“the Property”).

(Legal description of land including easements not described elsewhere)

PURCHASE PRICE: -----Nine Hundred Fifty Five Thousand-----Dollars (CDNS) 955,000.00

DEPOSIT: Buyer submits (Upon Acceptance)----- One Dollar -----Dollars (CDNS) 1.00

By negotiable cheque payable to the Seller to be held in trust without interest pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. Buyer agrees to pay the balance as follows:

On closing, the balance of the purchase price, subject to the adjustments described herein, by cash or certified cheque to the Seller or as the Seller may direct.

SCHEDULE(S) “A”, “B” & “C” attached hereto form(s) part of this Agreement.

- CHATELS INCLUDED:** NONE
- FIXTURES EXCLUDED:** NONE
- RENTAL ITEMS:** The following equipment is rented and **not** included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:
- IRREVOCABILITY:** This Offer shall be irrevocable by the Seller until 4:00 p.m. on the _____ day of _____, 2018
after which time, if not accepted, the Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.
- COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 pm. on the _____ day of _____ (**SEE SCHEDULE “A”**), 2018.
Upon completion, vacant possession of the Property shall be given to the Buyer unless otherwise provided for in this Agreement.
- NOTICES:** Any notice relating hereto or provided for herein shall be in writing. This offer, any counter offer, notice of acceptance thereof, or any notice shall be deemed given and received, when hand delivered to the address for service provided in the Acknowledgement below, or where a facsimile number is provided herein, when transmitted electronically to that facsimile number.

FAX No. (705) 739-4278 (For delivery of notices to Seller) FAX No. (519) 886-8898 (For delivery of notices to Buyer)
- HST:** If this transaction is subject to Harmonized Sales Tax (H.S.T.), then such tax shall be _____ in addition to _____ the Purchase Price.
(included in/in addition to)
If this transaction is not subject to H.S.T., Seller agrees to certify, on or before closing that the transaction is not subject to H.S.T.
- TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. 30 days prior to Completion Date (Requisition Date) to examine the title to the Property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or, (ii) five days prior to completion, to satisfy himself that there are no outstanding work orders or deficiency notices affecting the Property, that its present use (Vacant Land) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality other governmental agencies releasing to Buyer details of all outstanding work orders affecting the Property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.
- FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the Property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.
- TITLE:** Provided that the title to the Property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the Property or adjacent properties; and (d) any easement for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the Property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact that said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance and except against risk of fire in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Broker and Co-operating Broker shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller’s title to the Property.
- CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part 111 of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electric Registration Act, S.O. 1991, Chapter 44, and any amendments thereto the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the “Requisite Deliveries”) and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and 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 Requisite Deliveries will required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers, the form of which is as recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
- DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the Property except such as are in the possession or control of Seller. If required by Buyer, Seller will deliver any sketch or survey of the Property within Seller’s control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust and Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller’s lawyer’s personal undertaking to obtain, out of the closing funds, prepared by the mortgagee setting out the balance required to obtain the discharge, together with a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
- INSPECTION:** **Buyer acknowledges having had the opportunity to inspect the Property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller.**

14. **INSURANCE:** All buildings on the Property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller’s or other mortgagee’s interest on completion.
15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the Property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
16. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50 (22) of the Planning Act, R.S.O. 1990.
17. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer’s liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
18. **ADJUSTMENTS:** Any rents, mortgage interest, reality taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself be apportioned to Buyer.
19. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing and completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
20. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.
21. **FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under provisions of the Family Law Act, R.S.O. 1990 unless Seller’s spouse has executed the consent, hereinafter provided.
22. **UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the Property, Seller has not caused any building on the Property to be insulated with insulation containing urea formaldehyde, and that to the best of Seller’s knowledge no building on the Property contains or has ever contained insulation that contains urea formaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is subject of this transaction.
23. **CONSUMER REPORTS: The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.**
24. **AGENCY:** It is understood that the brokers involved in the transaction represent the parties as set out in the Confirmation of Representation below.
25. **AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision written or typed in this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition which affects this Agreement other than as expressed herein. This Agreement shall be read with all changes of gender or number required by the context.
26. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

DATED at _____ this _____ day of _____, 2018

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

The Corporation of the City of Barrie

(Witness)

(Seller)

Name: Jeff Lehman
Title: Mayor
I have authority to bind the Corporation

DATE: _____

(Seal)

(Witness)

(Seller)

Name: Wendy Cook
Title: City Clerk
I have authority to bind the Corporation

DATE: _____

(Seal)

DATED at _____ this _____ day of _____, 2018

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

HIP BARRIE CENTRAL INC.

(Witness)

(Buyer)

Name
Title:
I have authority to bind the Corporation

DATE: _____

(Seal)

**SCHEDULE “A” TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)**

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: HIP Barrie Central Inc._____and

SELLER: The Corporation of the City of Barrie_____

For the purchase and sale of: 34, 36, 38, & 40 Bradford Street, legally described on Schedule “B” and shown on Schedule “C”_____

1. Amendments to the printed form to which this schedule is attached:
- (a) The time noted in Clause 5 and 8 of the printed form to which this schedule is attached is amended to 4:00 p.m. rather than 6:00 p.m.
2. This Agreement of Purchase and Sale is conditional upon the following:
- (a) The Council of The Corporation of the City of Barrie approving of this Agreement of Purchase and Sale.

(b) The Council of The Corporation of the City of Barrie approving of a separate Agreement of Purchase and Sale for the Buyer’s property being part of PIN 587970085 ((Former Barrie Central Collegiate) (the “**Auditorium Lands APS**”).

(c) The Council of The Corporation of the City of Barrie approving of a separate Agreement of Purchase and Sale for the Seller’s property being Part of PIN 587970003 (Red Storey Field) (the “**Field Lands APS**”).

(d) The Council of The Corporation of the City of Barrie approving of a separate Agreement Purchase and Sale for property located at 44 Bradford Street (the “**44 Bradford APS**”).

Unless the Seller gives notice in writing delivered to the Buyer, that these conditions have been fulfilled, satisfactory to the Chief Administrative Officer, on or before 4:00 pm of the 90th day following acceptance, this Offer shall become null and void and the deposit shall be returned to the Buyer forthwith in full without deduction.

The Seller and Buyer agree that all conditions are true conditions precedent and as a result it is in the sole and absolute discretion of the Seller to determine whether or not they wish to waive any condition or not, and no action on their part can be deemed a waiver by the Seller except a written waiver of the condition.

3. This Agreement of Purchase and Sale is conditional upon the following for a period of 120 days following the removal of the conditions pertaining to Council approval set out in Section 2 (the “**Due Diligence Period**”):
- (a) The Buyer determining at its own expense, that the Property does not contain a habitat or critical habitat as defined in the Species at Risk Act, SC 2002, C29, nor a habitat as defined in the Endangered Species Act, 2007 S.O. 2007, C6 which could unreasonably restrict the development of the Property.

(b) The Buyer satisfying itself that the zoning for the Property will permit its proposed mixed use residential development (the “**Proposed Development**”).

(c) The Buyer satisfying itself that there is sufficient access from and onto the Property in order to permit the Proposed Development.

(d) The Buyer satisfying itself of the suitability of the sub-surface soil conditions and environmental and archaeological assessments of the Property. The Seller acknowledges that once the Buyer has completed all of their soils testing and has disclosed any possible soils issues to the Seller then notwithstanding that it may be possible for the soils issue to be remediated, the Buyer in their sole and unfettered discretion shall have the right to decide whether or not to waive this condition and the cost of remediation shall not necessarily be a factor that must be considered by the Buyer in deciding whether or not to waive this condition.

(e) The Buyer satisfying itself that any approval or permit required for the Proposed Development and all servicing can be acquired without unreasonable cost.

(f) The Buyer satisfying itself of the feasibility of the Proposed Development.

Unless the Buyer gives notice in writing delivered to the Seller that these conditions have been fulfilled on or before 4:00 pm on the last day of the Due Diligence Period, this Offer shall become null and void and the deposit shall be returned to the Buyer forthwith in full without deduction.

The Seller and Buyer agree that all conditions are true conditions precedent and as a result it is in the sole and absolute discretion of the Buyer to determine whether or not they wish to waive any condition or not, and no action on their part can be deemed a waiver by the Buyer except a written waiver of the condition.

4. This Agreement is conditional upon the Seller obtaining title and possession to lands known municipally as 44 Bradford Street, Barrie, ON, ("44 Bradford") on or before December 31, 2019. If the Seller is unable to obtain title and possession to 44 Bradford prior to December 31, 2019, this Agreement shall be null and void and the deposit shall be returned to the Purchaser.

5. Completion of this Agreement of Purchase and Sale is conditional upon the simultaneous completion of the transactions contemplated by the Auditorium Lands APS and the Field Lands APS. Such condition is for the benefit of both the Seller and the Buyer and failing waiver of such condition in writing, this agreement shall become null and void and the deposit shall be returned to the Buyer forthwith in full without deduction.

The Seller and Buyer agree that all conditions are true conditions precedent and as a result it is in the sole and absolute discretion of the Buyer and Seller to determine whether or not they wish to waive any condition or not, and no action on their part can be deemed a waiver by the either party except a written waiver of the condition.

6. The Seller represents and warrants that:

(a) There is no claim or litigation pending, or to the knowledge of the Seller, threatened with respect to the Seller, the Property, or the occupancy, use or development of the Property by the Seller which could affect the right of the Buyer to own, occupy or develop the Property or the ability of the Seller to perform its obligations under this agreement.

(b) There are no leases, licences or other agreements or contracts whatsoever relating to or affecting the Property in any manner which will survive closing and the Seller covenants and agrees that it shall not enter into any contract in respect of the Property which will survive closing without the Buyer's prior written consent.

(c) No notice of any pending expropriation from any governmental authority, agency, department or board having jurisdiction over the Property has been issued or remains outstanding.

(d) There are not now and will not be on the completion date, any outstanding or pending work orders, or any notices of existing, pending or threatened orders, directives or other requirements or proceedings arising out of the condition of the Property or the violations of any environmental, health or safety statutes, regulations, by-laws or rules of any governmental authority. If any such orders, directives or other requirements do arise following acceptance of this Agreement and prior to the Closing, the Seller shall attend to such work as is necessary to remove or satisfy the order, directive or other requirement provided that if the cost to remove such order is greater than \$100,000.00, the Seller may choose not to complete the work necessary and the Buyer shall, at its option (i) complete the transaction with a reduction in the Purchase Price equal to the cost to remove such order or (ii) terminate this agreement.

(e) The Seller will keep the Property free of all noxious weeds until the completion date in compliance with all municipal legislation.

(f) On the completion date there will be no registered restrictions, covenants, easements or rights of way that run with the Property except as disclosed by registered title as at the date hereof or has been registered with the consent of the Buyer, such consent not to be unreasonably withheld, delayed or conditioned..

7. Prior to the completion date, the Seller shall provide a certificate confirming the representations and warranties in this Agreement are true and correct and will be as of the completion date.

8. In the event this Agreement of Purchase and Sale is terminated, the Buyer agrees to provide the Seller with copies of all reports prepared by third parties in connection with the Buyer's due diligence of the Property, including, any soils, geotechnical, environmental and archaeological reports arising from the investigations.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



9. The Seller hereby consents to local and regional municipalities, the Province or any other governmental authority having jurisdiction releasing to the Buyer details of all outstanding municipal or other compliance or work orders or deficiency notices affecting the Property and/or such information related to the Property as is in their respective files and the Seller agrees to promptly execute and deliver to the Buyer such further authorizations in this regard as the Buyer may reasonably require.
10. The Seller agrees to indemnify and save harmless the Buyer for any loss suffered in relation to a breach by the Seller of any warranty contained herein, provided that such indemnity shall not exceed the purchase price set out herein.
11. None of the said provisions in this Agreement of Purchase and Sale shall merge on the completion date of the transaction and thereafter shall continue to be in full force and effect with time continuing to be of the essence. Notwithstanding the foregoing, the Seller's representations and warranties herein shall merge on the 2nd anniversary of the Closing. The Seller agrees to provide to the Buyer on the completion date a duly executed non-merger Agreement with wording to the satisfaction of the Buyer.
12. The Buyer and its representatives shall be entitled to enter upon the Property at any time prior to closing, on 48 hours notice to the Seller in order to inspect same, check elevations, conduct soil tests, prepare surveys, conduct investigations and for any other purpose necessary or incidental to the completion of the Buyer's due diligence, at its own expense, provided that in so doing, no damage is done to the Property and in the event of any damage, the Buyer shall attend to the immediate repair thereof. This obligation shall survive the termination of this Agreement for a period of ninety (90) days.
13. The Seller agrees to provide to the Buyer all documents, records, and reports relating to the Property including, without limitation, those dealing with environmental matters that are in the possession of the Seller. The Seller further authorizes the Ministry of Environment, to release to the Buyer, any and all information that may be on record in the Ministry's office with respect to the Property. If a written authorization to release any record is required the Seller agrees to provide such to the Buyer forthwith.
14. This transaction shall close on or before 30 days following the removal of the final condition to be satisfied in each of this Agreement, the Auditorium Lands APS, the Field Lands APS and the 44 Bradford APS.
15. Following the waiver of conditions contained in Sections 2 and 3 of this Schedule "A", the Seller agrees to provide its written consent to all reasonable requests, without charge and without payment, in connection with all official plan and zoning amendments, site plan applications, minor variance applications or other similar type of applications. To the extent that the City of Barrie or other governmental or quasi-governmental bodies requires any specific authorizations in connection with the foregoing or in connection with any pre-consultation or consultation processes the Seller agrees to provide same. All of the foregoing applications and processes being at the Buyer's sole expense and provided further that the Seller will not be required to give any positive covenants and that the Seller is not required to pay any levies or any other financial obligations imposed by any party under the foregoing. Seller shall provide a response to any of the Buyer's requests within seven (7) days of receipt of the request.
16. The Buyer covenants and agrees that it will be responsible for and pay any HST payable in connection with the Transaction. The Buyer shall be entitled to self-assess in accordance with the provisions of the *Excise Tax Act* (Canada) with respect to such HST and shall indemnify and save harmless the Seller with respect to the payment of HST. Provided further that the Buyer shall deliver, prior to Closing, its certificate confirming that (i) the Buyer is a registrant under the *Excise Tax Act* (Canada), together with its HST registration number, (ii) such registered number is in good standing and has not been varied or revoked, (iii) the Property being purchased by the Buyer as principal for its own account and are not being purchased by the Buyer as an agent, trustee or otherwise on behalf of or for another Buyer, (iv) the Buyer shall be liable for, shall self-assess and shall remit to the appropriate government authority all HST payable in respect of the Transaction and (v) the Buyer will indemnify and save harmless the Seller from any HST, penalty, interest or other amount which may be payable by or be assessed against the Seller under the ETA as a result of or in connection with the Seller's failure to collect and remit any HST applicable on the sale and conveyance of the Property to the Buyer by the Seller. In the event that the Buyer shall fail to deliver such certificate, declaration and indemnity, then the Buyer shall pay to the Seller, in addition to the Purchase Price, in pursuance of Buyer's obligation to pay and Seller's obligation to collect HST under the provisions of the *Excise Tax Act* (Canada), an amount equal to thirteen per cent (13%) of the Purchase Price.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



SCHEDULE “B” TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: HIP Barrie Central Inc._____and

SELLER: The Corporation of the City of Barrie_____

For the purchase and sale of: 34, 36, 38, & 40 Bradford Street, legally described on Schedule “B” and shown on Schedule “C”_____

34 Bradford Street

PT LT 102 W/S BRADFORD ST ROBERT ROSS UNREGISTERED PL ABSTRACTED AS NO REGISTERED PL OF EDGAR BLK BARRIE; PT LT 2 E/S GRAHAM ST ROBERT ROSS UNREGISTERED PL ABSTRACTED AS NO REGISTERED PL OF EDGAR BLK BARRIE AS IN BA25383 EXCEPT RO315402; BARRIE. BEING ALL OF PIN # 587970008.

36 Bradford Street


PT LT 102 W/S BRADFORD ST ROBERT ROSS UNREGISTERED PL ABSTRACTED AS NO REGISTERED PL OF EDGAR BLK BARRIE; PT LT 2 E/S GRAHAM ST ROBERT ROSS UNREGISTERED PL ABSTRACTED AS NO REGISTERED PL OF EDGAR BLK BARRIE AS IN RO1002793; BARRIE. BEING ALL OF PIN # 587970009.

38 Bradford Street

PT LT 103 W/S BRADFORD ST ROBERT ROSS UNREGISTERED PL ABSTRACTED AS NO REGISTERED PL OF EDGAR BLK BARRIE; PT LT 3 E/S GRAHAM ST ROBERT ROSS UNREGISTERED PL ABSTRACTED AS NO REGISTERED PL OF EDGAR BLK BARRIE AS IN RO1050835; BARRIE. BEING ALL OF PIN # 587970010.

40 Bradford Street

PT LT 103 W/S BRADFORD ST ROBERT ROSS UNREGISTERED PL ABSTRACTED AS NO REGISTERED PL OF EDGAR BLK BARRIE; PT LT 3 E/S GRAHAM ST ROBERT ROSS UNREGISTERED PL ABSTRACTED AS NO REGISTERED PL OF EDGAR BLK BARRIE AS IN RO1050833; BARRIE. BEING ALL OF PIN # 587970011.

INITIALS OF BUYER(S): INITIALS OF SELLER(S): 

**SCHEDULE “C” TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)**

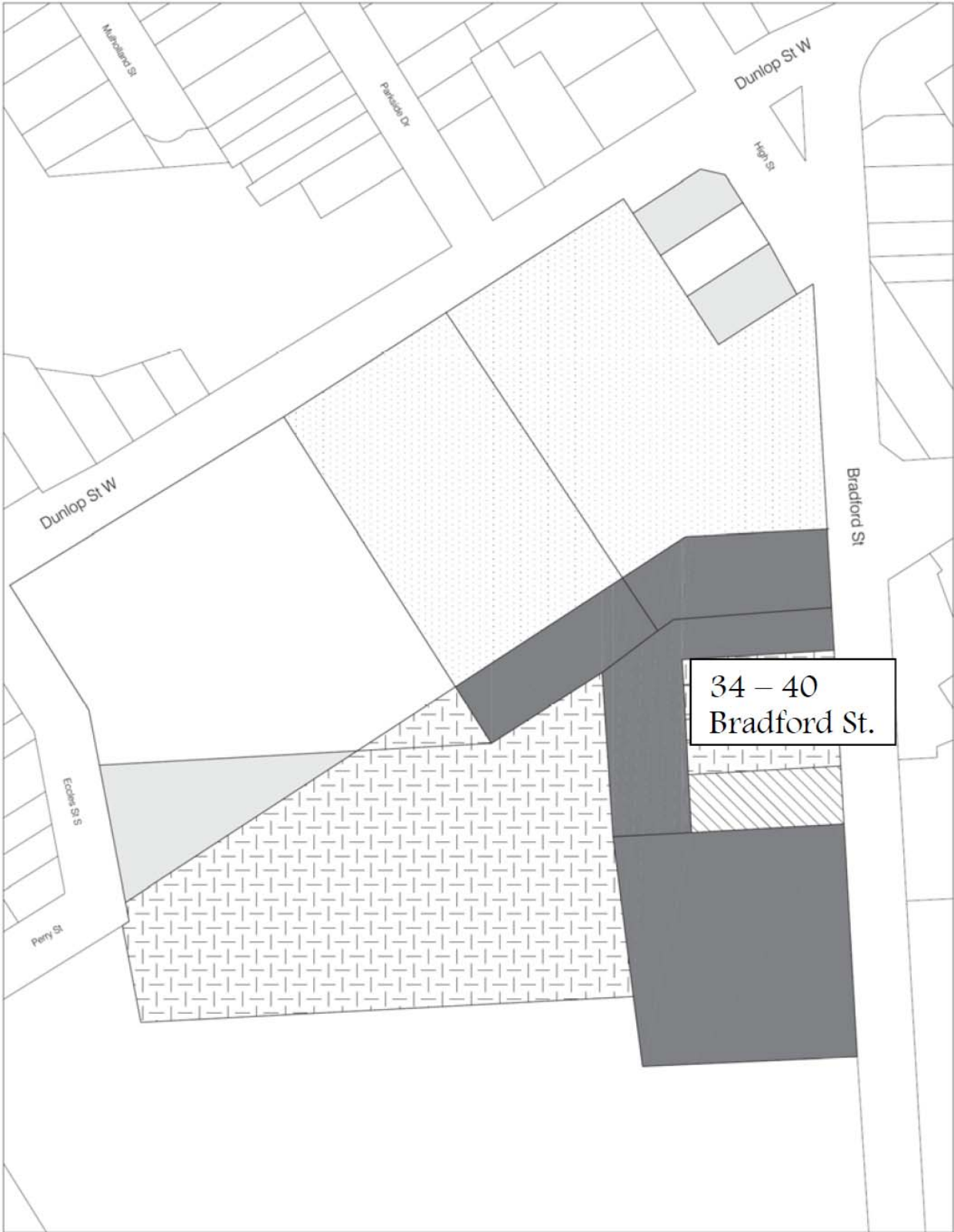
This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: HIP Barrie Central Inc._____and

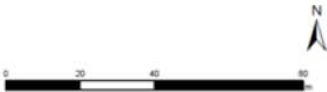
SELLER: The Corporation of the City of Barrie_____

For the purchase and sale of: 34, 36, 38, & 40 Bradford Street, legally described on Schedule “B” and shown on Schedule “C”_____

The Property



-  City Lands stays in City Ownership
-  City Lands to HIP
-  HIP Lands stays in HIP Ownership
-  HIP Lands to City
-  Privately Owned Land to be Acquired by the City



INITIALS OF BUYER(S): 

INITIALS OF SELLER(S): 

APPENDIX "E"

Fisher Auditorium - 1.784 Hectares of Property





APPENDIX "F"

Fisher Auditorium - Agreement of Purchase and Sale



FISHER AUDITORIUM

AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)

BUYER: The Corporation of the City of Barrie
(Full legal names of all Buyers) agrees to purchase from

SELLER: HIP Barrie Central Inc.
(Full legal names of all Sellers) the following

REAL PROPERTY:

Address: Part of 125 Dunlop Street West

in the City of Barrie

and having a frontage of TBD more or less by a depth of TBD more or less and legally described as

Part of PIN 587970085, as approximately shown on Schedule "B", to be described by Reference Plan and
deposited at the Land Registry Office ("the Property").

(Legal description of land including easements not described elsewhere)

PURCHASE PRICE:

Six Million Two Hundred and Fourteen Thousand Dollars (CDN\$) 6,214,000.00

DEPOSIT: Buyer submits (Upon Acceptance) One Dollar Dollars (CDN\$) 1.00

By negotiable cheque payable to the Seller to be held in trust without interest pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. Buyer agrees to pay the balance as follows:

On closing, the balance of the purchase price, subject to the adjustments described herein, by cash or certified cheque to the Seller or as the Seller may direct.

SCHEDULE(S) "A", "B", "C-1", "C-2" & D attached hereto form(s) part of this Agreement.

- 1. CHATELS INCLUDED: NONE
- 2. FIXTURES EXCLUDED: NONE
- 3. RENTAL ITEMS: The following equipment is rented and not included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:
- 4. IRREVOCABILITY: This Offer shall be irrevocable by the Buyer until 4:00 p.m. on the day of , 2018 after which time, if not accepted, the Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.
- 5. COMPLETION DATE: This Agreement shall be completed by no later than 6:00 pm. on the day of (SEE SCHEDULE "A"), 2018. Upon completion, vacant possession of the Property shall be given to the Buyer unless otherwise provided for in this Agreement.
- 6. NOTICES: This offer, any counter offer, notice of acceptance thereof, or any notice shall be deemed given and received, when hand delivered to the address for service provided in the Acknowledgement below, or where a facsimile number is provided herein, when transmitted electronically to that facsimile number.
- FAX No. (519) 886-8898 (For delivery of notices to Seller) FAX No. (705) 739-4278 (For delivery of notices to Buyer)
- 7. HST: If this transaction is subject to Harmonized Sales Tax (H.S.T.), then such tax shall be in addition to the Purchase Price. (included in/in addition to) If this transaction is not subject to H.S.T., Seller agrees to certify, on or before closing that the transaction is not subject to H.S.T.
- 8. TITLE SEARCH: Buyer shall be allowed until 6:00 p.m. 30 days prior to Completion Date (Requisition Date) to examine the title to the Property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or, (ii) five days prior to completion, to satisfy himself that there are no outstanding work orders or deficiency notices affecting the Property, that its present use (Vacant Land with Improvements) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality other governmental agencies releasing to Buyer details of all outstanding work orders affecting the Property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.
- 9. FUTURE USE: Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the Property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.
- 10. TITLE: Provided that the title to the Property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been compiled with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the Property or adjacent properties; and (d) any easement for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the Property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact that said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance and except against risk of fire in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Broker and Co-operating Broker shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the Property.
- 11. CLOSING ARRANGEMENTS: Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part 111 of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electric Registration Act, S.O. 1991, Chapter 44, and any

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



- amendments thereto the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the “Requisite Deliveries”) and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and 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 Requisite Deliveries will required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers, the form of which is as recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the Property except such as are in the possession or control of Seller. If required by Buyer, Seller will deliver any sketch or survey of the Property within Seller’s control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust and Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller’s lawyer’s personal undertaking to obtain, out of the closing funds, prepared by the mortgagee setting out the balance required to obtain the discharge, together with a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
13. **INSPECTION: Buyer acknowledges having had the opportunity to inspect the Property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller.**
14. **INSURANCE:** All buildings on the Property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller’s or other mortgagee’s interest on completion.
15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the Property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
16. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50 (22) of the Planning Act, R.S.O. 1990.
17. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer’s liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
18. **ADJUSTMENTS:** Any rents, mortgage interest, reality taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself be apportioned to Buyer.
19. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing and completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
20. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.
21. **FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under provisions of the Family Law Act, R.S.O. 1990 unless Seller’s spouse has executed the consent, hereinafter provided.
22. **UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the Property, Seller has not caused any building on the Property to be insulated with insulation containing urea formaldehyde, and that to the best of Seller’s knowledge no building on the Property contains or has ever contained insulation that contains urea formaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is subject of this transaction.
23. **CONSUMER REPORTS: The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.**
24. **AGENCY:** It is understood that the brokers involved in the transaction represent the parties as set out in the Confirmation of Representation below.
25. **AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision written or typed in this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition which affects this Agreement other than as expressed herein. This Agreement shall be read with all changes of gender or number required by the context.
26. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

DATED at _____ this _____ day of _____, 2018
SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

The Corporation of the City of Barrie

_____ (Witness)	_____ (Buyer) Name: Jeff Lehman Title: Mayor I have authority to bind the Corporation	● (Seal) DATE: _____
_____ (Witness)	_____ (Buyer) Name: Wendy Cook Title: City Clerk I have authority to bind the Corporation	● (Seal) DATE: _____

DATED at _____ this _____ day of _____, 2018
SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

HIP BARRIE CENTRAL INC.

_____ (Witness)	_____ (Seller) Name Title: I have authority to bind the Corporation	● (Seal) DATE: _____
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INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



**SCHEDULE “A” TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)**

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: The Corporation of the City of Barrie and

SELLER: HIP Barrie Central Inc.

For the purchase and sale of Part of PIN 587970085, as approximately shown on Schedule “B”, to be described by Reference Plan and deposited at the Land Registry Office

- 1. Amendments to the printed form to which this schedule is attached:
 - (a) The time noted in Clause 5 and 8 of the printed form to which this schedule is attached is amended to 4:00 p.m. rather than 6:00 p.m.
- 2. The Buyer and Seller agree to adjust the Property area on the basis of a deposited reference plan that delineates the Property as identified on Schedule “B” such that the total area of the Property equates to 17,843 square metres.
- 3. This Agreement of Purchase and Sale is conditional upon the following:
 - (a) The Council of The Corporation of the City of Barrie approving of this Agreement of Purchase and Sale.
 - (b) The Council of The Corporation of the City of Barrie approving of a separate Agreement of Purchase and Sale for the Buyer’s property being 34, 36, 38 & 40 Bradford Street (the “**House Lands APS**”).
 - (c) The Council of The Corporation of the City of Barrie approving of a separate Agreement of Purchase and Sale for the Buyer’s property being Part of PIN 587970003 (Red Storey Field) (the “**Field Lands APS**”).
 - (d) The Council of The Corporation of the City of Barrie approving of a separate Agreement of Purchase and Sale for property located at 44 Bradford Street (the “**44 Bradford APS**”).

Unless the Buyer gives notice in writing delivered to the Seller, that these conditions have been fulfilled, satisfactory to the Chief Administrative Officer, on or before 4:00 pm of the 90th day following acceptance, this agreement shall become null and void and the deposit shall be returned to the Buyer forthwith in full without deduction.

- 4. This Agreement of Purchase and Sale is conditional upon the following for a period of 120 days following the removal of the conditions pertaining to Council approval set out in Section 4 (the “**Due Diligence Period**”):
 - (a) The Buyer determining at its own expense, that the Property does not contain a habitat or critical habitat as defined in the Species at Risk Act, SC 2002, C29, nor a habitat as defined in the Endangered Species Act, 2007 S.O. 2007, C6 which could unreasonably restrict the development of the Property.
 - (b) The Buyer satisfying itself that the zoning for the Property will permit the proposed redevelopment of the Fisher Auditorium (the “**Proposed Development**”).
 - (c) The Buyer satisfying itself that there is sufficient access from and onto the Property in order to permit the Proposed Development.
 - (d) The Buyer satisfying itself of the suitability of the sub-surface soil conditions and environmental and archaeological assessments of the Property. The Seller acknowledges that once the Buyer has completed all of their soils testing and has disclosed any possible soils issues to the Seller then notwithstanding that it may be possible for the soils issue to be remediated, the Buyer in their sole and unfettered discretion shall have the right to decide whether or not to waive this condition and the cost of remediation shall not necessarily be a factor that must be considered by the Buyer in deciding whether or not to waive this condition.

- (e) The Buyer satisfying itself that any approval or permit required for the Proposed Development and all servicing can be acquired without unreasonable cost.
- (f) The Buyer satisfying itself of the feasibility and business case to develop, operate and fund the Proposed Development.
- (g) The Buyer entering into a binding ground lease with the YMCA for a portion of the Property.
- (h) The Buyer satisfying itself that all necessary permits and approvals for the proposed realignment of Kidd's Creek traversing the Property will be granted by the Lake Simcoe Region Conversation Authority and other regulatory agencies.

Unless the Buyer gives notice in writing delivered to the Seller that these conditions have been fulfilled, satisfactory to the Chief Administrative Officer, on or before 4:00 pm on the last day of the Due Diligence Period, this agreement shall become null and void and the deposit shall be returned to the Buyer forthwith in full without deduction.

The Seller and Buyer agree that all conditions are true conditions precedent and as a result it is in the sole and absolute discretion of the Buyer to determine whether or not they wish to waive any condition or not, and no action on their part can be deemed a waiver by the Buyer except a written waiver of the condition.

- 5. This Agreement is conditional upon the Seller obtaining title and possession to lands known municipally as 44 Bradford Street, Barrie, ON, ("44 Bradford") on or before December 31, 2019. If the Seller is unable to obtain title and possession to 44 Bradford prior to December 31, 2019, this Agreement shall be null and void and the deposit shall be returned to the Purchaser.
- 6. Completion of this Agreement of Purchase and Sale is conditional upon the simultaneous completion of the transactions contemplated by the House Lands APS and the Field Lands APS. Such condition is for the benefit of both the Seller and the Buyer and failing waiver of such condition in writing, this agreement shall become null and void and the deposit shall be returned to the Buyer forthwith in full without deduction.

The Seller and Buyer agree that all conditions are true conditions precedent and as a result it is in the sole and absolute discretion of the Buyer and Seller to determine whether or not they wish to waive any condition or not, and no action on their part can be deemed a waiver by the either party except a written waiver of the condition.

- 7. The Seller represents and warrants that:
 - (a) There is no claim or litigation pending, or to the knowledge of the Seller, threatened with respect to the Seller, the Property, or the occupancy, use or development of the Property by the Seller which could affect the right of the Buyer to own, occupy or develop the Property or the ability of the Seller to perform its obligations under this agreement.
 - (b) There are no leases, licences or other agreements or contracts whatsoever relating to or affecting the Property in any manner which will survive closing and the Seller covenants and agrees that it shall not enter into any contract in respect of the Property which will survive closing without the Buyer's prior written consent.
 - (c) No notice of any pending expropriation from any governmental authority, agency, department or board having jurisdiction over the Property has been issued or remains outstanding.
 - (d) There are not now and will not be on the completion date, any outstanding or pending work orders, or any notices of existing, pending or threatened orders, directives or other requirements or proceedings arising out of the condition of the Property or the violations of any environmental, health or safety statutes, regulations, by-laws or rules of any governmental authority. If any such orders, directives or other requirements do arise following acceptance of this Agreement and prior to the Closing, the Seller shall attend to such work as is necessary to remove or satisfy the order, directive or other requirement provided that if the cost to remove such order is greater than \$100,000.00, the Seller may choose not to complete the work necessary and the Buyer shall, at its option (i) complete the transaction with a reduction in the Purchase Price equal to the cost to remove such order or (ii) terminate this agreement.
 - (e) The Seller will keep the Property free of all noxious weeds until the completion date in compliance with all municipal legislation.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



- (f) On the completion date there will be no registered restrictions, covenants, easements or rights of way that run with the Property except as disclosed by registered title as at the date hereof or has been registered with the consent of the Buyer, such consent not to be unreasonably withheld, delayed or conditioned.
8. Prior to the completion date, the Seller shall provide a certificate confirming the representations and warranties in this Agreement are true and correct and will be as of the completion date.
9. Immediately following removal of the conditions pertaining to council approval set out in Section 3 of this Schedule "A", the Seller shall provide the Purchaser access to the Property to complete the following, at the City's sole risk, cost and expense:
- (a) Geotechnical and archaeological due diligence work;
 - (b) Attending the site regularly via City security personnel to ensure prevention of vandalism, damage and so forth;
 - (c) Completion of repairs and maintenance to prevent any deterioration of Fisher Auditorium (specifically roof works);
 - (d) Installation of electrical/fire alarm/security systems/heating;
 - (e) Securing the portion of the building separately from the rest of the HIP site; and
 - (f) Works associated with the construction of the City watercourse on the Property.

In the event that this transaction is not completed the Buyer shall restore the Property to its existing condition immediately prior to the Seller granting access to the Buyer for the purposes set out in this Section 9.

10. In the event this Agreement of Purchase and Sale is terminated, the Buyer agrees to provide the Seller with copies of all reports prepared by third parties in connection with the Buyer's due diligence of the Property, including, any soils, geotechnical, environmental and archaeological reports arising from the investigations.
11. The Seller hereby consents to local and regional municipalities, the Province or any other governmental authority having jurisdiction releasing to the Buyer details of all outstanding municipal or other compliance or work orders or deficiency notices affecting the Property and/or such information related to the Property as is in their respective files and the Seller agrees to promptly execute and deliver to the Buyer such further authorizations in this regard as the Buyer may reasonably require.
12. The Seller agrees to indemnify and save harmless the Buyer for any loss suffered in relation to a breach by the Seller of any warranty contained herein, provided that such indemnity shall not exceed the purchase price set out herein.
13. None of the said provisions in this Agreement of Purchase and Sale shall merge on the completion date of the transaction and thereafter shall continue to be in full force and effect with time continuing to be of the essence. Notwithstanding the foregoing, the Seller's representations and warranties herein shall merge on the 2nd anniversary of the Closing. The Seller agrees to provide to the Buyer on the completion date a duly executed non-merger Agreement with wording to the satisfaction of the Buyer.
14. The Buyer and its representatives shall be entitled to enter upon the Property at any time prior to closing, on 48 hours prior notice to the Seller in order to inspect same, check elevations, conduct soil tests, prepare surveys, conduct investigations and for any other purpose necessary or incidental to the completion of the Buyer's due diligence, at its own expense, provided that in so doing, (i) no damage is done to the Property and in the event of any damage, the Buyer shall attend to the immediate repair thereof, and (ii) the Buyer or its agents do not interfere with the activities of the Seller related to demolition. This obligation shall survive the termination of this Agreement for a period of ninety (90) days.
15. The Seller agrees to provide to the Buyer all documents, records, and reports relating to the Property including, without limitation, those dealing with environmental matters, designated substances audits and building inspection reports, that are in the possession of the Seller. The Seller further authorizes the Ministry of Environment, to release to the Buyer, any and all information that may be on record in the Ministry's office with respect to the Property. If a written authorization to release any record is required the Seller agrees to provide such to the Buyer forthwith.
16. The Seller agrees to complete all work contemplated by the demolition permit it has in respect of the lands in a good and workmanlike manner prior to Closing. Other than the work contemplated by the demolition permit and the representation and warranties contained herein, Buyer accepts the Property and all improvements located thereon in an "as is, where is" condition.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



17. This transaction shall close on or before 30 days following the removal of the final condition to be satisfied in each of this Agreement, the Field Lands APS, the House Lands APS and the 44 Bradford APS.
18. Following the waiver of conditions contained in Sections 3 and 4 of this Schedule “A”, it is understood and agreed that the Seller may make applications involving the Property in respect of official plan and zoning amendments, site plan applications, minor variance applications or other similar type of applications as it relates to the development of the lands currently owned by the Seller (and not being sold herein) and to be acquired through the Field Land APS and the House Lands APS. All of the foregoing applications and processes being at the Seller’s sole expense and provided further that the Buyer will not be required to give any positive covenants and that the Buyer is not required to pay any levies or any other financial obligations imposed by any party under the foregoing.
19. The Buyer and Seller shall convey mutual access easements, substantially in the form set out in Schedule “C-1” and “C-2” hereto, for access purposes over a portion of both the Property and adjacent lands owned by the Seller and as roughly identified on Schedule “D” attached hereto (the “Easement Lands”). The Buyer and Seller acknowledge that the Easement Lands shall be further described by way of deposited reference plan, which reference plan shall be prepared and deposited at the sole cost of the Seller.

Buyer and Seller acknowledge that the ultimate access to the Seller’s development on lands adjacent to the Property shall be further addressed through the Seller’s development application process.

20. The Buyer covenants and agrees that it will be responsible for and pay any HST payable in connection with the Transaction. The Buyer shall be entitled to self-assess in accordance with the provisions of the *Excise Tax Act* (Canada) with respect to such HST and shall indemnify and save harmless the Seller with respect to the payment of HST. Provided further that the Buyer shall deliver, prior to Closing, its certificate confirming that (i) the Buyer is a registrant under the *Excise Tax Act* (Canada), together with its HST registration number, (ii) such registered number is in good standing and has not been varied or revoked, (iii) the Property being purchased by the Buyer as principal for its own account and are not being purchased by the Buyer as an agent, trustee or otherwise on behalf of or for another Buyer, (iv) the Buyer shall be liable for, shall self-assess and shall remit to the appropriate government authority all HST payable in respect of the Transaction and (v) the Buyer will indemnify and save harmless the Seller from any HST, penalty, interest or other amount which may be payable by or be assessed against the Seller under the ETA as a result of or in connection with the Seller’s failure to collect and remit any HST applicable on the sale and conveyance of the Property to the Buyer by the Seller. In the event that the Buyer shall fail to deliver such certificate, declaration and indemnity, then the Buyer shall pay to the Seller, in addition to the Purchase Price, in pursuance of Buyer’s obligation to pay and Seller’s obligation to collect HST under the provisions of the *Excise Tax Act* (Canada), an amount equal to thirteen per cent (13%) of the Purchase Price.

SCHEDULE “B” TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: The Corporation of the City of Barrie and

SELLER: HIP Barrie Central Inc.

For the purchase and sale of Part of PIN 587970085, as approximately shown on Schedule “B”, to be described by Reference Plan and deposited at the Land Registry Office

The Property



INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

**SCHEDULE “C-1” TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)**

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: The Corporation of the City of Barrie and

SELLER: HIP Barrie Central Inc.

For the purchase and sale of Part of PIN 587970085, as approximately shown on Schedule “B”, to be described by Reference Plan and deposited at the Land Registry Office

Access Easement Language – Buyer to Seller

The Transferor hereby sells, grants and conveys in perpetuity to the Transferee, its successors and assigns, a free and uninterrupted easement in, under, over, upon, across or through the easement lands for the purpose of vehicular and pedestrian access to lands owned by the Transferee.

The Transferee shall be responsible at its sole cost and expense for the construction, repair, maintenance, replacement, renewal, or improvement of the access at all times to the satisfaction of the Transferor, acting reasonably, and in accordance with plans approved by the Transferor.

Together with the right of the Transferee, its licensees, successors, assigns, servants, agents, workers and contractors with all necessary vehicles, supplies, machinery and equipment necessary or incidental to enter upon the easement lands at all times and to pass and repass thereon for the purpose of inspecting, surveying, constructing, erecting, removing, reconstructing, re-erecting, replacing, renewing, altering, enlarging, expanding, improving, and using, the said access and any required signage as may be required by the Transferor from time to time, whether or not any part to be so inspected, examined, surveyed, or used, is on the easement lands described herein.

The Transferee acknowledges that the cost or expense of any works undertaken by the Transferor for the purpose of inspecting, surveying, constructing, erecting, removing, reconstructing, re-erecting, replacing, renewing, altering, enlarging, expanding, improving, and using, the said access as a result of the Transferee being in default of the terms of this easement shall be borne by the Transferee.

The Transferee covenants that without the consent in writing of the Transferor, it will not place or remove any fill or improve any part of the easement lands by applying any surface treatment or erecting any pole, structure or building or do any other construction above or below the surface except as permitted by the Transferor.

The Transferor and Transferee agree that this access easement shall be subject to revision pursuant to the Transferee’s development application for the lands to which this easement provides access, and that this easement may be released from title to the easement lands if required through the development application process.

The Transferee hereby indemnifies and releases the Transferor from any and every claim which may or might arise out of the exercise by the Transferee or any third party of any of the rights granted by this Transfer of Easement and accepts the consideration above mentioned in full satisfaction of all such claims.

It is understood and agreed by and between the parties hereto that the burden of this Transfer of Easement and of all the covenants herein contained shall run with the easement lands herein described, and the benefit of this Transfer of Easement and of all the covenants herein contained shall run with all other lands and interest in lands, owned, occupied or used by the Transferee, it's successors and assigns, for the purpose of operating and maintaining such services as may be required by the Transferee from time to time and that this Transfer of Easement shall be binding upon and enure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors and assigns.

INITIALS OF BUYER(S): 

INITIALS OF SELLER(S): 

**SCHEDULE “C-2” TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)**

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: The Corporation of the City of Barrie and

SELLER: HIP Barrie Central Inc.

For the purchase and sale of Part of PIN 587970085, as approximately shown on Schedule “B”, to be described by Reference Plan and deposited at the Land Registry Office

Access Easement – Seller to Buyer

The Transferor hereby sells, grants and conveys in perpetuity to the Transferee, its successors and assigns, a free and uninterrupted easement in, under, over, upon, across or through the easement lands for the purpose of vehicular and pedestrian access to lands owned by the Transferee.

The Transferor shall be responsible at its sole cost and expense for the construction, repair, maintenance, replacement, renewal, or improvement of the pedestrian walkway at all times to the satisfaction of the Transferee, acting reasonably, and in accordance with plans approved by the Transferee.

Together with the right of the Transferee, its licensees, successors, assigns, servants, agents, workers and contractors with all necessary vehicles, supplies, machinery and equipment necessary or incidental to enter upon the easement lands at all times and to pass and repass thereon for the purpose of inspecting, surveying, constructing, erecting, removing, reconstructing, re-erecting, replacing, renewing, altering, enlarging, expanding, improving, and using, the said access and any required signage as may be required by the Transferee from time to time, whether or not any part to be so inspected, examined, surveyed, or used, is on the easement lands described herein.

The Transferor acknowledges that it shall be solely responsible for the construction of the access and all costs and expenses associated with construction, maintenance and repair of the access shall be borne by the Transferor. The Transferor shall maintain the access to standards acceptable to the transferee.

The Transferor acknowledges that the cost or expense of any works undertaken by the Transferee for the purpose of inspecting, surveying, constructing, erecting, removing, reconstructing, re-erecting, replacing, renewing, altering, enlarging, expanding, improving, and using, the said access as a result of the Transferor being in default of the terms of this easement shall be borne by the Transferor.

The Transferor covenants that without the consent in writing of the Transferee, it will not place or remove any fill or improve any part of the easement lands by applying any surface treatment or erecting any pole, structure or building or do any other construction above or below the surface except as permitted by the Transferee.

The Transferor and Transferee agree that this access easement shall be subject to revision pursuant to the Transferor’s development application for adjoining lands owned by the Transferor, and that this easement may be released from title to the easement lands if required through the development application process.

The Transferor hereby indemnifies and releases the Transferee from any and every claim which may or might arise out of the exercise by the Transferee or any third party of any of the rights granted by this Transfer of Easement and accepts the consideration above mentioned in full satisfaction of all such claims.

It is understood and agreed by and between the parties hereto that the burden of this Transfer of Easement and of all the covenants herein contained shall run with the easement lands herein described, and the benefit of this Transfer of Easement and of all the covenants herein contained shall run with all other lands and interest in lands, owned, occupied or used by the Transferee, it's successors and assigns, for the purpose of operating and maintaining such services as may be required by the Transferee from time to time and that this Transfer of Easement shall be binding upon and enure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors and assigns.

INITIALS OF BUYER(S): 

INITIALS OF SELLER(S): 

SCHEDULE “D” TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: The Corporation of the City of Barrie and

SELLER: HIP Barrie Central Inc.

For the purchase and sale of Part of PIN 587970085, as approximately shown on Schedule “B”, to be described by Reference Plan and deposited at the Land Registry Office

Sketch of Access Easement to be Defined by Reference Plan

General dimensions of the proposed access easement shown in yellow.



INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

APPENDIX "G"

44 Bradford Street - 0.107 Hectares of Property



-  City Lands stays in City Ownership
-  City Lands to HIP
-  HIP Lands stays in HIP Ownership
-  HIP Lands to City
-  Privately Owned Land to be Acquired by the City

