



EVERYTHING YOU EVER WANTED TO KNOW ABOUT
HOUSING AUTHORITIES AND TO ESTABLISH ONE
IN
FIRST NATIONS COMMUNITIES

FNNBOA
5731 Old Hwy #2
P.O. Box 219
Shannonville, Ontario
K0K 3A0

March 25, 2018

The views in this document are those of the author and do not necessarily represent those departments or agencies reviewed or the First Nations National Building Officers Association.

Table of Contents

1	Introduction	1
1.1	Review of Some Housing Authorities.....	1
2	Provincial Housing Corporations	3
2.1	Revenues – Rent Collections and other Opportunities.....	6
3	Lessons Learn for First Nations Housing Authorities.....	7
3.1	How Do You Get Arm’s Lengths Relationships?.....	7
4	Housing Authority Structures.....	8
5	Corporate Structure – Not for Profit Organization.....	10
6	Financing a Housing Authority	13
7	Investment – Reserve and Reserve Funds	13
8	Matrimonial Real Property Law and Housing Authorities.....	14
9	Implementation Road Map	15
10	Proposed Job Descriptions – Executive Director and Director	16
10.1	Proposed Executive Director	16
10.2	Proposed Job Description - Director of Housing.....	21
11	Appendix A.....	23
11.1	Sample BCR Establishing a Housing Authority	23
11.2	By law No. 1 – Establishing A Housing Authority Corporation.....	27
11.3	Housing Authority Objectives	46
11.4	Resolution of the Board of Directors.....	48
11.5	Consent to Act as First Director	49
11.6	Resolution of the Board of Directors – Banking Bylaw.....	50
11.7	Articles of Incorporation (Form 4001).....	51
11.8	Funding Agreement	57
11.9	Sample BCR – Funding Agreement.....	68

NOTICE

This manual could not be established without the financial support of Indigenous and Northern Development Canada. The author would like to thank the input from the FNNBOA board members.

This document is disseminated by the First Nations National Building Officers Association in the interest of information exchange. This manual gives a general overview on what is involved in the establishment of a housing authority and is not intended to provide legal or technical advice. If you have specific questions or concerns it is strongly recommended that you seek legal advice. Finally, the First Nations National Building Officers Association assumes no liability for the use of the information contained in this document. If there are any questions regarding this manual, please send your message to info@fnnboa.ca

March 25, 2018

1 Introduction

A Housing Authority (HA) is defined as an arm's length housing management body that may or may not be incorporated, that manages, administers or operates housing on behalf of owners that can include the Chief and Council of a First Nation.

Arm's length is a term that describes a relationship between the First Nation Council/government and a HA that exists between two distinct entities, with or without separate legal definitions. The two entities communicate and share a vision for housing but act separately to some degree. A HA allows First Nations leaders to recognize the importance of keeping housing functions at arm's length from the decision-making function of Council.

A HA in its truest form is an organization that is incorporated under federal or provincial legislation as either a corporation or a not for profit entity.

Implementing an HA is an option for First Nations communities who wish to improve their housing management services and seek additional resources to bring their housing stock up to a housing standard¹.

Housing Authorities are for leaders who have a vision to improve housing conditions for their members and who are willing to move housing functions to an independent organization.

A HA can mean different things to different First Nations. In some communities, a housing department could be referred to as a HA. In other cases, a housing committee may be viewed as a HA. However, legally and practically, these departments and committees are not HA. They have no legal structure that gives them independence from Chief and Council or allow them to access financial capital.

1.1 Review of Some Housing Authorities

- Lac Seul First Nations in Ontario has operated its HA since 2002. Ke-nawind Housing Development Authority is an incorporated body guided by three board members appointed by Chief and Council.

The Authority has a staff of five persons. The Lac Seul First Nation provides administrative support to the Kenawind Housing Development Authority. The Authority is responsible for approximately 100 rental units under CMHC's section 95 program and has been effective in rent collection and arrears management. The Kenawind Housing Development Authority appears to be structured based on band council housing

¹ For more information about housing standards see:
https://cmhc.beyond2020.com/HiCODefinitions_EN.html#_Housing_Standards

resolutions and is a not for profit incorporation². In November 2017, the federal government provided the community with over \$1.45 million in investment for lot servicing and construction costs, while the First Nation contributed \$250,000 of its own funds to create three new triplexes³.

- Eabametoong Housing Authority is located 360 kilometres north of Thunder Bay (near Armstrong, Ontario). The Housing Authority oversees all habitable housing units on-reserve, consisting of 267 units of which 155 units are older (1975-95) and 112 units are newer (1997-2004). The newer units are mortgaged houses that are rented out to tenants. The older houses (non-rental units) are maintained and repaired for health and safety, and when condemned, are eventually replaced. The Housing Authority was originally structured under a Band resolution. A few years later, it was incorporated as a not for profit. Unfortunately, the organization ran into management difficulties and the corporation was dissolved. The community is now reconsidering the establishment of a corporation structure.
- The objectives of the Opaskwayak Cree Nation (OCN) Housing Authority Ltd. in OPaskwayak Manitoba, are to: provide proper standard housing for all the members of OCN and their families; maximize the use of the monies available for OCN members; provide orderly development of houses and disposition of multiple dwellings; and establish programs for upgrades and improve housing standards. The Housing Authority is structured as a corporation and provides control through the board. The board provides direction to their staff and contractors regarding the construction and repairs of homes. The Housing Authority is also responsible for tenant relations and collecting rent.
- The Nisichawayasihk Housing Authority (NHA) works to ensure adequate, quality housing for the residents of Nelson House, Manitoba (Nisichawayasihk Cree Nation). Homes are made available for ownership or as rental homes on land leased from the Nation. NHA works to ensure all homes are built to national building code and related standards. The NHA works with the community's public works, road, sewer and water services and government to provide effective quality infrastructure and housing. The NHA operates under a band resolution and has instituted policies to keep the Council at arm's length. For example, the Council must submit any information regarding repairs to a home or concerns about a housing issue in writing to the Board. The board will review the request and respond accordingly (e.g., do we have the money? Is that person/family in

² A search under the government of Canada – Corporate searches; and the Ontario government for not for profit could not identify any documents to support the incorporation.

³ See: Government of Canada partners with Lac Seul First Nation to improve housing in the community. November 10, 2017. <https://www.newswire.ca/news-releases/government-of-canada-partners-with-lac-seul-first-nation-to-improve-housing-in-the-community-656653503.html>

appears to the Council?) The NHA is considering incorporating as a not for profit organization, as this will help them secure bank financing.

Based on the review of First Nations communities that have a HA or claimed to have a HA, a couple appear to be incorporated as a not for profit corporation. Many of the HA reviewed appear to be operating more like a housing department or a housing committee. In these situations, the Council continues to have input in the decision making of those individuals responsible for housing and there is no arm's length relationship.

2 Provincial Housing Corporations

Many provincial and territorial governments have established housing corporations. Housing corporations provide a range of programs and services to help people in their jurisdiction with housing needs. The corporations manage funds from the federal, provincial and municipal levels of government and financing from banking and investment institutions. Housing corporation programs include renting, home repairs and renovations; housing development and construction (e.g., procurement and tendering, building homes that are energy efficient); home ownership opportunities; investment in housing; educating tenants; and, following the rules and regulations under their provincial tenancy or landlord legislation.

For example, the Saskatchewan Housing Corporation provides funds and program initiatives to approximately 270 municipal HA (Figure 1). The responsibilities of the local authorities include the administration and routine maintenance of housing units assigned to their area. These HA operate as semi autonomous agencies and operate at an arms length relationship with the Saskatchewan Housing Corporation.

These HA operate at arms lengths by instituting policies that relate to decision making for tenants and servicing the units. For example, the Saskatchewan Housing Corporation is not directly involved in activities such as making decisions on procurement (which contractor(s) will receive a tender to build or repair homes), the selection of tenants, or the servicing of units. The arms lengths relationship is clearly defined through a series of operating agreements, shareholder agreements, corporate by-laws, waiting list agreements, funding agreements, or rental agreements. In many First Nations communities, these types of agreements do not exist.

Figure 1 Overview of Saskatchewan Housing Corporation

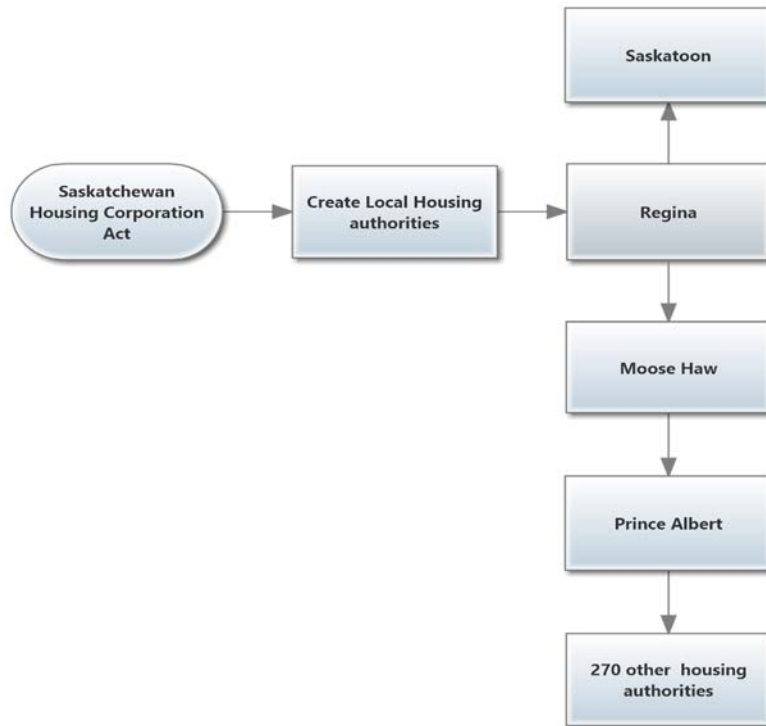


Figure 2 below gives an overview of how Housing Authorities are structured as an organization. The principles could be applied to First Nations communities, and HA could be structured with fewer personnel. For example, the department operational property management, and security and safety could be one department under a First Nation HA structure.

Figure 2 A Housing Authority Organizational Chart



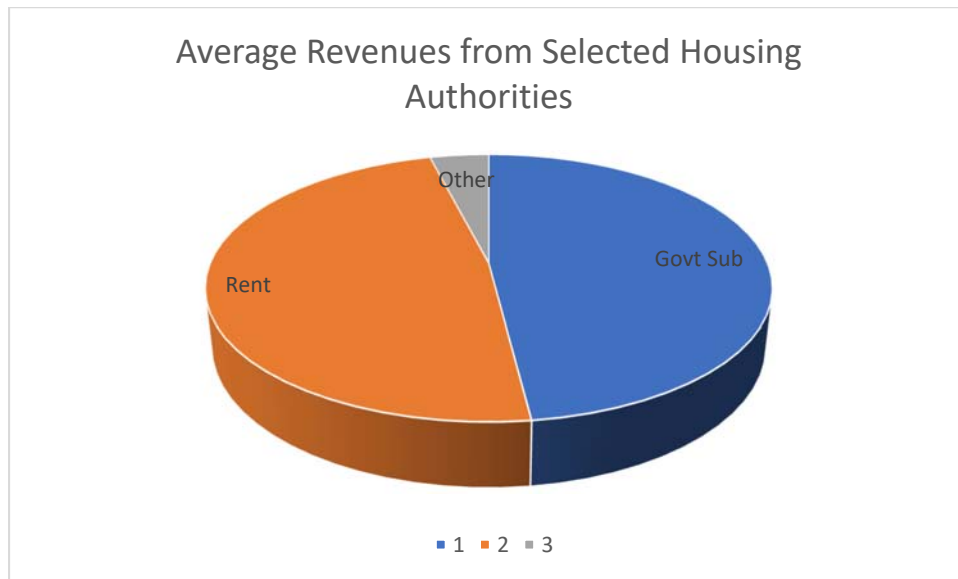
2.1 Revenues – Rent Collections and other Opportunities

Revenue generation is an important element for HA off reserve. Revenue sources include: rent from tenants, rent from government sources (e.g., shelter allowance, senior supplement) and other sources including investment and interest, management fees (charge to repair damage by tenant), laundry machines, advertising, communication contracts (e.g., internet providers), cost recoveries and technical services.

According to Oliveira (2013) a review of HA found that the revenue from rent ranges from 44% to 52% and revenue from government funds ranges from 45% to 51%. In one HA, the revenues collected from rent are 38% and from government 61%. The Ottawa Community Housing Corporation has revenues consisting of 44% from rent and 53% from government subsidies.⁴

Figure 3 gives an overview of how housing authorities raise revenues.

Figure 3 Average Revenue from Selected Housing Authorities



⁴ Ottawa Community Housing (2015) Annual Report, 2014/2015. See <http://app05.ottawa.ca/sirepub/cache/2/1ar32bieqbpfbjzhkw1sld1/29487912012017094622484.PDF>

3 Lessons Learn for First Nations Housing Authorities

Upon reviewing the First Nations HA and those operating in provinces and in municipalities, the following observations can be made:

1. Need a corporate structure with clear roles and responsibilities.
2. Need a corporate structure to gain financing from banks and other lending institutions.
3. Need agreements and clear policies and procedures to ensure arm's length relationship from Chief and Council (e.g., accountability).
4. Organization operates separately from Chief and Council.
5. Tenancy relationship including the charging and collection of rent is the key to financial success of the authority.
6. The HA needs to provide information to the Chief and Council and the community that includes: annual budgets, annual information return, audited financial statements, financial plans (multi-year financial plans) and strategic plans.
7. Revenues include both rent collected from tenants and from tenants that are receiving a government subsidy. Charging for repairs and selling advertising are another source of revenue.
8. Not all communities may be able to implement a HA as the number of homes to be placed under a HA may be few (e.g., housing stock capacity). In these cases, a HA may become part of a Tribal Council or work in partnership with another community.
9. The successful creation of a HA requires recognition, understanding and willingness by the leadership of the First Nation of the need to create a HA.
10. First Nations communities must ensure they have the capacity (e.g., the ability to acquire, use and sustain the various resources that it requires to carry out its mandate).

3.1 How Do You Get Arm's Lengths Relationships?

One of the challenges facing First Nations communities is to ensure that the Chief and Council cannot directly or indirectly influence the decisions made on housing. To ensure that there is an arm's length relationship (i.e., each owes no special obligation to the other party) the following documents are recommended.

Table 1 Types of Agreements to Ensure Arm's Lengths Relationships

Types of Agreements to Ensure Arm's Length Relationships

Types of Policies or Documents	Where to Find Examples
1. Corporate by-laws	In this document
2. Rental Agreements	See FNNBOA website or good examples are provided under provincial government departments responsible for landlord tenancy legislation
3. Waiting List Agreements	See FNNBOA website
4. Shareholder Agreements	In this document
5. Shareholder Direction	In this document
6. Operating Agreement (policies and procedures)	See FNNBOA website where you will find policies and procedures for a housing department.
7. Funding Agreement	In this document

4 Housing Authority Structures

The HA has a significant degree of independence from its Chief and Council with respect to housing.

A HA can mean different things to different people. Based on our review of the First Nation HA and those that operate off reserve, FNNBOA recommends a model that includes: *An incorporated organization with an independent board of directors. The incorporated organization is accountable to the Council via annual reporting on budget and performance of the organization and audited statements.*

It is critical that the political leadership have a vision that housing services form an essential component of overall community development and quality of life. There needs to be a willingness by the leadership to move the housing function to an arm's length body and to recognize the independence of the organization for day-to-day operations (e.g., no longer under the responsibility of Council). However, the independent organization is accountable to Council in terms of financing (independent audit), and performance of the organization.

The autonomy or independence of a HA from the Chief and Council may appear minimal on paper but is great in practice. Although the Authority may be closely tied to the political level of

the First Nation, it is either policy or practice for the elected leaders to involve themselves as little as possible in the day-to-day operations of the HA.

Figure 4 gives an overview on the arm's length relationship between the Council and the HA. Most importantly, the diagram shows how the Board from the HA reports back to the Council via audit statements, accountability and performance.

Figure 4 Overview of Relationship Between Council and a Housing Authority

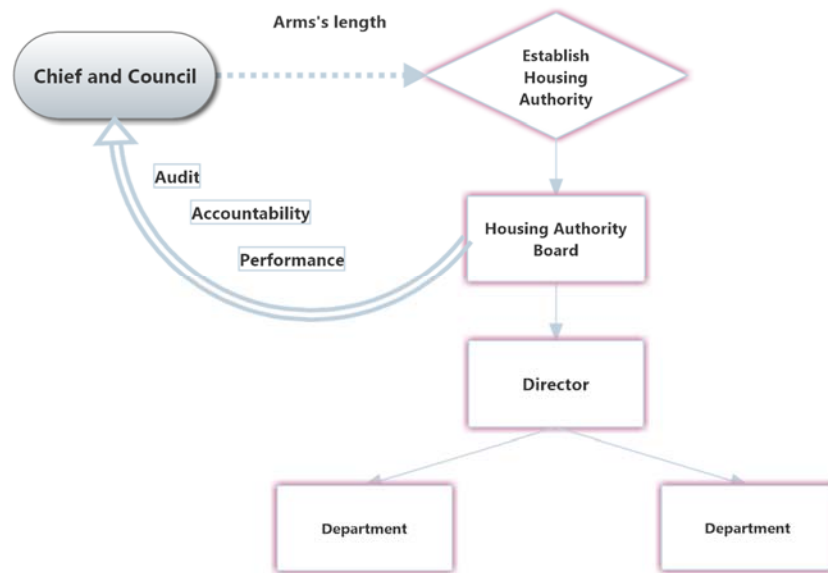
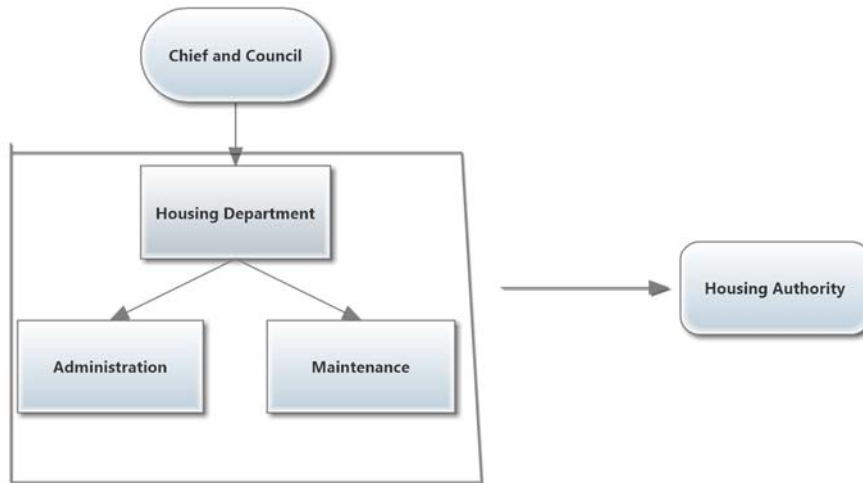


Figure 5 gives a simplistic overview on what happens to the housing department that reports under Council. Simple, the housing department is transferred to work under the HA. There will be a need to restructure some housing functions and reporting relationships, but generally the department including those assets (desk, computer) become part of the HA.

Figure 5 Overview on Transfer of Housing Department to Housing a Housing Authority



Instituting a HA is a great opportunity for First Nations to engage in self-governing and self-determining activities in a tangible way that could reduce First Nations reliance on external funding, financing, and governing bodies for the creation and administration of programs that deal with a basic and important aspect of life – the need of all people for affordable and adequate (safe, healthy) housing.

5 Corporate Structure – Not for Profit Organization

Based on our research, it is proposed that a First Nations HA should consider a corporate structure that is a not for profit organization. A not for profit organization is a group that is organized for social, religious, charitable, educational, athletic, literary, political or other such activities.

A First Nation community can be defined as a not for profit organization. Although there are different kinds of not for profit organizations, they all have one thing in common. The people involved in a not for profit organization cannot use it to make personal financial gain.

However, not for profit organizations can and do engage in activities that result in income or profit. However, the profits that these organizations make must be held in trust for the organization and can only be used in carrying out the goals and objectives of the organization.

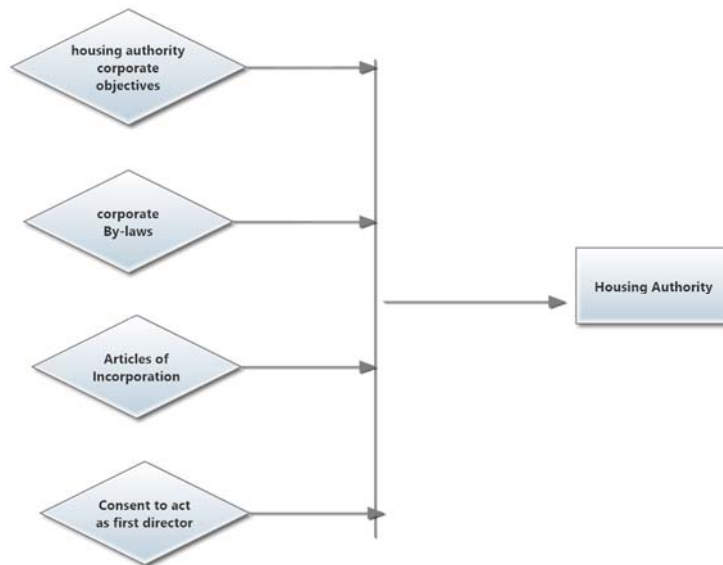
The goals and objectives for a HA are provided in this document (See Appendix A). Table 2 provides a comparison between a HA with a corporate not for profit structure and a housing department or a housing committee. The table shows that a HA corporation has the most independent or arm's length relationship between the Council and the HA.

Table 2 Comparison Between Housing Authority - Corporate Structure and a Housing Department

Items	Housing Authority Corporation	Housing Department
Structure	Arm's length relationship via structure and corporation bylaws. Independent Board that includes community members. Accountable to the Chief and Council and the community. A separate organization focusing on housing issues.	Always reporting to Chief and Council. No by laws on how housing department reports to Council.
Borrow Money	Can borrow money for housing. Negotiated directly with lending institutions	Cannot borrow money. Must be done via Chief and Council
Granting Function	Receives all federal grant and operating monies for housing	Chief and Council provides via a housing budget
Revenues	Goes directly to housing corporation for reinvestment	Goes directly to Chief and Council. It may or may not be reinvested into housing.
Audit and Evaluation	Provides annual independent Audit and evaluation	Only if Chief and Council asks for an audit or evaluation.
Community Involvement	The Community are the shareholders and have direct input	The community members only have input via Council elections
Housing Operations	Responsible for the day to day operations of housing (e.g., tenant contracts, rent, collection of rent). Chief and Council have no say on the collection of rent.	Similar activities, but the collection of rent may not occur because of Chief and Council's decision to not proceed.
Capacity	Built based on its revenues and expertise. Staff report to the Head of the organization and the Board. Less turn over in staff.	May have expertise, but revenues may not be allocated back to the department to be reinvested into housing. High turn over of housing managers.
Construction	Responsible for tendering and construction, renovations. Ensure homes are built to national building code and other standards.	May be responsible for tendering but may need to work with engineering department. Not clear who will ensure homes are built to national building code and other standards. Status quo is maintained.

Figure 6 shows some of the key decisions the Council must make to establish a HA. These include approval of the HA corporate objectives, corporate bylaws (separate from Council's bylaws), file the articles of incorporation and sign a form to consent as a first director (i.e., a form that helps to resolve any disputes arising should a director's claim that they had not consented to act for the corporation at the inception of the organization).

Figure 6 Some Key Decisions Council Makes to Establish a Housing Authority



There are many references available to further understand not for profit organizations. The following suggested readings:

Legal Guide: not for profit Organizations

http://www.legal-info-legale.nb.ca/en/publications/consumer_law_and_non_profit/non_profits/not_for_profit_organizations_legal_guide.pdf

Government of Canada: not for profit Corporations

http://www.strategis.gc.ca/eic/site/cd-dgc.nsf/eng/h_cs03925.html

FNNBOA has provided the required documentations for First Nations communities wanting to establish a HA as a not for profit corporation under the Not for Profit Corporation Act (Canada).

The following documents are provided in Appendix A.

1. Sample BCR for establishment of HA.
2. Sample By Law to establish the HA as a Not for profit organization.

3. Sample HA Objectives.
4. Sample consent to act as first director.
5. Sample Resolutions for officers.
6. Sample bylaws for banking.
7. Sample Articles of Incorporation (Form 4001: Articles of Incorporation Canada).

6 Financing a Housing Authority

The question that was raised by many individuals is how is a HA financed? Generally, to finance a HA, the Chief and Council will be required to transfer the monies for housing to the HA. These monies include those from the federal government (e.g., INAC and CMHC). Under this arrangement the Council can transfer the monies through a Band Council Resolution (BCR) or an agreement. Appendix A provides samples on BCR or the agreements that the Council may want to consider.

These documents are called

1. Sample BCR – Funding Agreement
2. Funding Agreement

7 Investment – Reserve and Reserve Funds

Housing authorities will also have a capital reserve fund where the organization is permitted to accumulate funds to cover the cost of replacing worn out capital items in the project. These monies are investment with financial institutions to give them a financial return on their funds. The reserves and reserve funds are key elements of the HA's long-term fiscal strategy.

There is also the replacement reserve fund that is required under CMHC where a community has an operating agreement with CMHC. In this case, the reserve is used to replace or repair what are known as capital items. The replacement reserve is funded from a sponsor's operating budget through an annual or monthly transfer to the reserve. The amount to be transferred, which is an eligible operating expense, is the amount set out in the operating agreement or another amount approved by CMHC⁵. It is important that when establishing a capital reserve or a replacement reserve to consult with CMHC and other experts to develop financial principle to specifically address the use of reserves and reserve funds⁶. Finally, the community may want to meet with

⁵ https://www.cmhc-schl.gc.ca/en/inpr/afhoce/exsoho/upload/replacement_reserve_guide_for_social_housing_sponsors_en.pdf

⁶ York Region has a Reserve and Reserve Fund Policy. Please see:
<https://www.york.ca/wps/wcm/connect/yorkpublic/ab4ac880-07c7-4876-9957-1a4023843068/Reserve+and+Reserve+Fund+Policy.pdf?MOD=AJPERES>

the First Nations Finance Authority regarding any investments under a HA framework (www.fnfa.ca).

8 Matrimonial Real Property Law and Housing Authorities

On December 16, 2014, *The Family Homes on Reserves and Matrimonial Interests or Rights Act* came into full force. First Nations communities can choose to enact their own matrimonial real property laws. The Act applies to married couples and common-law partners living on reserve, where at least one of them is a First Nation member or an Indian.

The Act applies to all First Nations with reserve land, with the following exceptions:

- First Nations that have enacted their own matrimonial real property laws under this Act.
- First Nations with reserve lands and a Self Government Agreement in effect who have jurisdiction over land management. (Self-governing First Nations may ask the Minister to make a declaration that the legislation will apply to them).
- Operational First Nations with land codes in place under the *First Nations Land Management Act* (FNLMA).
- Developmental First Nations without land codes that were on the schedule to the First Nations Land Management Act on the date of Royal Assent (June 19, 2013) will be exempted for a period of three years (until June 19, 2016).

In terms of housing in the community, the matrimonial homes can include the following:

- Band - owned rental – Housing rented from the Band. Some Bands use tenancy agreement or adopted housing policies that address what happens if the tenants separate.
- Social housing – Housing owned by the Band for which members repay the band and when the house is fully paid, the band may transfer position to the band member(s).
- Capital housing – Housing paid for by the Band member(s) occupying it and for which financial loan may have been obtained or a subsidy from the Band. While the Band members may own the house, they may be occupying the land under a tenancy agreement with the Band or occupy general Band land.

The development of any HA, should consider the impact the Matrimonial Real Property Law will have on the operation of the HA.

Several resources are available to help guide the Matrimonial Real Property Law on the development of HA. These include:

Centre of Excellence for Matrimonial Real Property www.coemrp.ca

National Aboriginal Lands Managers Association <https://nalma.ca/>

9 Implementation Road Map

Once a Council approves the implementation of a HA, the following gives a road map on your possible steps you may want to take:

1. Set up an implementation team. As part of the team there should be weekly meetings to make sure organizational, personnel and community issues are discussed. The implementation team should involve: chief executive officer and chief financial officer, housing councillor, housing manager (or designate), and any special advisors.
2. Have the BCR prepared for Council signature. The BCR states that the Council wants to implement a HA. You will find a copy in Appendix A.
3. Register as a federal incorporation or provincial incorporation. It is suggested to register as a federal incorporation as most of your interaction will be at the federal level. These documents are also provided in Appendix A.
4. As part of the registration as a federal government you will need to review the proposed HA not for profit corporation's objectives. These are provided in Appendix A. The key here is to make any changes or additions you believe are required.
5. Under the HA you will need to establish the board. The board could consist of 4 to 6 individuals. This board could include elders, a representative from the community or an educator. The board could have a member of Council, but only as an observer and not as a voting member. The not for profit corporate papers will determine the number of board members.
6. Hire an interim Executive Director for the HA. This may include the existing housing manager or a consultant to help set up the HA.
7. Under the HA the existing housing department should be moved under this organization. It cannot be done until the organization legally exists. A letter from the CEO or Band manager to the housing department would indicate that the housing department will now be functioning under the HA and reporting to the Director or department head. These individuals are still part of the Council in terms of wages and benefits. There is no change in this area.
8. Establish clear roles and responsibilities. This may be needed where there are shared resources. For example, if the HA does not have its own finance person and the services of the Council will be used, there must be clear roles and responsibilities established. (e.g., who sends out the notices to individuals who are behind in their rental payments).
9. COMMUNICATIONS – as part of the implementation, there is a need to continue to inform the community. This communication can include: advertisements for people to participate on the board, a competition to design a logo for the new HA, updates as to the progress, and updates regarding changes to the policies (e.g., increase in rent, requirements to take a home maintenance or budgeting course).
10. COMMUNICATIONS – important to also keep your partners informed. These include ISC, CMHC, contractors doing work in the community and those individuals that provide

services (inspections). They need to be aware how the HA will impact their delivery of services. For example, the HA who will be responsible for the construction and renovation of homes will in the future tender out the work to ensure value for money.

It is important to note that these are sample documents and should only be used as an information resource: It is recommended that a First Nations community wanting to develop a Housing Authority should consult with a lawyer.

10 Proposed Job Descriptions – Executive Director and Director

The following are sample job descriptions for executive director and director for a HA.

10.1 Proposed Executive Director

Job Purpose

Reporting to the Board, this position provides leadership and management of the planning, organizing, staffing, direction and control functions of the HA. Interprets and implements policies approved by the Board and is responsible for the administration of Board policies. The position conforms to a Contract between the Board and the Executive Director.

Duties and Responsibilities

1. Interprets, implements and administers the policies of the Board and all applicable federal and state housing regulations.
 - a. Supervises the preparation of all material to be reviewed by and to be acted upon by the Board. Acts as secretary to the Board, maintaining appropriate minutes, files and records.
 - b. Determines appropriate course(s) of action related to adopted policies and procedures.
 - c. Approves all correspondence, notices and directives dealing with policies issued by the Board for clarity and soundness.
 - d. Conforms to the requirements of the Working Agreement/Contract in force between the Director and the Board.
 - e. represents the HA and maintains liaison with regulatory agencies, local officials and community-based organizations, interpreting and explaining the HA's programs, policies, services, needs and other matters of mutual interest.

- f. Attends, on a consistent basis, meetings, workshops, conferences, seminars and other sessions, in order to gain first hand knowledge of new or improved housing programs in the public and private sectors.
 - g. Keeps informed of changes and innovations in the housing field as to matters of policy and operation.
 - h. prepares reports for internal and external use.
 - i. acts as the HA's public relations officer clearing all external statements, reviews and policies before being released to media.
 - j. acts as the HA's personnel officer assuring that all personnel policies, procedures, position descriptions and general personnel practices conform with all applicable statutes.
 - k. acts as the HA's contracting officer.
 - l. makes recommendations to the board on adoption of new policies and changes to existing policies.
2. provides for the administration, leadership and management of the HA.
- a. prepares and presents to the board for approval and subsequently administers and controls the conditions outlined in the annual contribution contracts, annual budgets and other supplemental budgets.
 - b. selects, appoints, disciplines, promotes, transfers and terminates all HA employees according to board policy as amended from time to time.
 - c. supervises managerial employees and an executive secretary, and indirectly monitors the performance of all HA employees.
 - d. responsible for the final review and approval of all work programs.
 - e. receives bids for board approval and executes contracts for work by others and monitors work in progress for compliance with contractual provisions.
 - f. supervises management and control of HA's payables, receivables, cash or other assets (including investments) associated with operating contracts, insurance administration and all internal and external financial operations.
 - g. authorizes expenditures/purchase orders in compliance with board policies.
 - h. anticipates board's, staff's and clients' needs and responds by making executive level decisions where appropriate to improve operations and services.
 - i. initiates the writing of proposals and grants.
 - j. creates and may serve as a member where appropriate on essential committees.
3. directs and coordinates activities of managerial personnel engaged in carrying out HA objectives:

- a. designs, implements and administers all HA functions and sub-functions so as to meet (or exceed) HA's goals.
 - b. reviews, maintains and implements all appropriate HA personnel policies and procedures.
 - c. establishes goals and objectives for department heads and approves those set for managers and supervisors.
 - d. supervises, monitors and evaluates performance of department head personnel.
 - e. compiles HA budget for board review and approval and reviews entire HA budget.
 - f. reviews/approves and implements regulations and notices from governmental and regulatory agencies and responds to such in (written) timely manner.
 - g. reviews/approves workload, schedules, personnel assignments, status of on-going work, projects and available personnel for work assignments in order to plan HA activities.
 - h. provides general oversight of the management and maintenance of all housing developments to ensure a high degree of livability at the lowest possible cost.
 - i. assigns/approves specific duties to personnel and special projects, considering individual knowledge and experience.
 - j. supervises the purchases of equipment, materials, and labor to satisfactorily meet the standards of good and proper maintenance.
 - k. reviews/approves reports, papers and other records prepared by personnel for clarity, completeness, accuracy and conformance with HA policies.
 - l. provides general oversight to the selecting of tenants, the execution of leases, the collection of rents, and the enforcement of leases as required by board policies and procedures.
 - m. coordinates work activities of administration with other departments, sections or agencies to prevent delays in actions required or to improve services to residents.
 - n. supervises and arranges for orientation and training of personnel.
 - o. approves leave requests, commendations and disciplinary actions.
 - p. maintains a high degree of personal flexibility and capability to address multi tasks and assignments of HA.
 - q. assures confidentiality of personnel information, processes and data which would be damaging if not properly safeguarded
4. performs other such duties as may be assigned by the board.
- a. the position requires:
 - I. considerable knowledge of the principles, theory and methods of executive level management. ability to establish and maintain effective working relationships with staff members, community leaders and regulatory HA administrators.

- II. ability to prepare and issue clear and concise instructions, either verbally or in written form.
- III. ability to research and gather essential data relating to housing management/maintenance issues. working knowledge of first nations policies and procedures, corporate governance and governmental regulations.
- IV. general ability to understand blueprints, engineering drawings and technical documents.
- V. ability to determine appearance and conditions of all building owned or managed by the HA.

POSITION REQUIREMENTS AND QUALIFICATIONS

5. Minimum Qualifications

- a. Eight (8) years experience in housing management, community development, public administration or a closely related field, or six (6) years plus a Bachelor's degree.
- b. Five (5) years in significant management capacity at a public HA or other similar experience. Supervised a staff of ten (10) or more for at least one year.
- c. Excellent written and oral communications skills, proven leadership ability, the skills necessary to provide management consultation, guidance and advice to officials on a broad range of public housing programs.
- d. Ability to demonstrate sensitivity to the problems and concerns of community members, resident groups and the needs of special interest groups such as seniors.
- e. Prior skills in budgeting, personnel management and public relations.
- f. Has working knowledge of fiscal management, maintenance systems, personnel and administration management systems in public or private housing.
- g. Substantial background in the implementation of management controls and systems.
- h. Considerable knowledge of federal and provincial governmental procedures and regulations as they relate to housing development, construction and the management of local HA operations.

6. Unique expertise/certification/registrations required:

- a. Ability to travel between various buildings owned and operated by or in other HA programs and to other meeting locations as required.
- b. state here other certifications or registrations
- c. Must be bondable.
- d. ability to maintain and enforce confidentiality in all assignments.
- e. ability to work harmoniously with other HA personnel.

- f. ability to relate to and interact with residents in low and moderate-income housing settings.
- g. Ability to be flexible and perform work under time pressure.
- h. Ability to train and give directions to other staff

APTITUDE REQUIREMENTS:

7. Cognitive:

a. Analytical:

- I. Ability to apply principles of logical thinking, to define problems, collect data, establish facts and draw conclusions; to interpret a variety of technical instructions
- II. Ability to deal with several concrete/abstract variables or unknowns simultaneously
- III. Ability to solve practical problems and to interpret a variety of instructions furnished in written, oral, diagrammatic or schedule form.

8. Communication:

- a. Ability to compose original correspondence, follow rules and regulations and have increased contact with people
- b. Ability to interview, counsel or advise people
- c. Ability to understand safety rules, warnings and instructions in the use and maintenance of facility and equipment
- d. Ability to log in data and draft data summaries and correspondence
- e. Ability to complete reports with proper format, punctuation, spelling and grammar
- f. Ability to record and deliver information; to explain complex procedures to others; to follow and give verbal and written work orders
- g. Ability to answer inquiries from residents/staff/public
- h. Ability to converse with officials, service providers, disgruntled residents and the general public

9. Mathematical

- a. Ability to use practical application of system of real numbers, fractions, percentages and ratio
- b. Ability to compile, compute and present mathematical information
- c. Ability to calculate variables, formulas and proportion variables

10. Administrative detail:

- a. Ability to complete forms; record and locate data accurately and reconcile data from different sources
- b. Ability to innovate and create analysis
- c. Ability to use excel, Microsoft and other related software programs

10.2 Proposed Job Description - Director of Housing

Job Purpose

reporting to the CEO, this position is responsible for overseeing and coordinating key housing services provided by the HA. this includes overseeing tenant selection, tenancy agreement administration and tenant relations for the entire HA housing portfolio while maintaining compliance with all applicable laws and regulations

Duties and Responsibilities

Housing Management

- implements and enforces HA's policies and procedures and ensures compliance with the residential tenancy act and regulations, HA tenancy agreements and house rules; formulates strategies and tactics to mitigate violations
- formulates policy with respect to operational procedures and ensures policies are followed
- oversees staff performing rent calculations and verification of income, rent intake and deposits move-in/move-out procedures
- develops tools and systems to educate tenants on and promote adherence to HA policies and procedures; and advances a sense of responsibility in tenants for their role in maintaining units and common areas
- provides guidance and advice on complex tenancy issues
- oversees interaction with tenants regarding complaints, violations, applications for housing, transfer requests, etc.
- guides staff in effectively resolving difficult tenant issues and disputes including preparation for and involvement in dispute mechanism hearings
- authorizes notices to end tenancy
- prepares management information and staff reports
- promotes positive tenant involvement in HA housing complexes
- ensures the appropriate handling of tenant files and protection of personal information.

Financial Management

- As member of senior management team, assists Finance Manager with the preparation and monitoring of departmental operating budgets

- Controls rent arrears and approves charge backs, and tenant transfer requests

Human Resources Management

- leads, supervises, and directs HA housing services staff including the tenant relations manager, supportive housing managers, housing coordinator and administrative staff
- establishes a positive, healthy and safe work environment in accordance with all appropriate legislation and regulations
- recruits, interviews and selects staff that have the right technical and personal abilities to help further the organization's mission
- ensures that all staff receives an orientation to the organization and that appropriate training is provided
- implements a performance management process for all staff which includes monitoring the performance of staff on an on-going basis and conducting an annual performance review
- coaches and mentors staff as appropriate to improve performance
- disciplines staff when necessary using appropriate techniques; releases staff when necessary using appropriate and legally defensible procedures
- performs other duties as required

Community Relations

- liaises with community associations, agencies and stakeholders
- represents the organization at community activities to enhance the organization's community profile
- intervenes with community agencies in supportive housing matters to ensure HA's interests are advanced
- participates on committees, task forces and special projects as required

Qualifications

- Related degree such as a Certified Property Management degree, with five years' related experience, including five years' supervising staff.
- Must possess a valid driver's Licence

Skills & Knowledge:

- Excellent communication skills (verbal and written), interpersonal and customer service skills
- Sound knowledge of the Residential Tenancy Act, CMHC and BC Housing programs and agreements
- Knowledge of supportive housing programs and services

- Considerable knowledge of the policies, procedures and regulations governing the activities of the Society
- Ability to establish and maintain effective relationships with contractors, tenants and the general public and to promote a positive team environment
- Experience in budget preparation and monitoring
- Strong supervisory and leadership skills; Demonstrated ability to build productive teams of staff performing varied functions
- Excellent conflict resolution skills
- Demonstrated ability to work under pressure, multi-task conflicting demands, meet deadlines and work independently
- Demonstrated ability to deal with sensitive situations with tact and diplomacy
- Demonstrated ability to prepare complex budget and statistical reports
- Knowledge of and experience in using word processing, spreadsheets and property management software.

11 Appendix A

11.1 Sample BCR Establishing a Housing Authority

SAMPLE BCR ESTABLISHING A HOUSING AUTHORITY

WHEREAS the First Nation maintains that, since time immemorial, has been and is a sovereign nation and affirms its inherent right to self-government by designating the Chief and Council to act on its behalf;

AND WHEREAS, the First Nation has a need for quality, cost effective, safe, accessible and sanitary housing for families, individuals, Elders and disabled members;

AND WHEREAS the First Nation desires to regulate residency and housing on reserve and in particular the allocation, use and occupancy of band-owned and other houses on reserve;

AND WHEREAS, in order to provide quality, cost effective, safe, accessible and sanitary housing on the First Nation there is a need for the establishment of a Housing Authority to develop and manage housing for First Nation members;

AND WHEREAS in order to provide accountability to the members of the First Nation the said Housing Authority shall be established at arms length from the Chief and Council of the First Nation.

NOW, THEREFORE, BE IT RESOLVED by the First Nation:

1. That there is and shall be established a housing authority on the First Nation known as the Housing Authority, effective the th day of , 20 .
2. That there are and shall be First Nation members who do and shall serve as the Board of Directors of the Housing Authority, effective as of the th day of , 20 .
3. That with the approval of Chief and Council the Housing Authority shall have the authority and jurisdiction to establish it's own Rules of Procedure and Process including the number of Board members who shall preside over the activities of the Housing Authority.
4. That the Housing Authority shall, at minimum, have the following objectives:
 - i. To establish, construct and maintain affordable, quality housing and other buildings and facilities for members of the First Nation
 - ii. To establish, construct and maintain affordable, quality housing and other buildings and facilities for Elders and disabled members of the First Nation
 - iii. To establish, construct and maintain affordable, quality rental housing and rent-to-own housing and facilities for members, Elders and disabled members of the First Nation
 - iv. To establish and promote social service housing, income support, and assisted care for members, Elders and disabled members of the First Nation as required and as needed
 - v. To identify community need and to determining the social portfolio of the community by assessing living and housing conditions and investigating the means and methods of improving these conditions
 - vi. To develop, implement, and monitor long-term planning for community housing
 - vii. To oversee and enable the operation and maintenance of First Nation housing projects and programs, including fulfilling all administrative duties traditionally associated with the development and management of social housing programs

- viii. To publish and disseminate information in various media formats including but not limited to written, electronic, television, radio, internet and other media with regard to housing, construction practices, inspection practices, standards, repairs, renovations and other educational material regarding housing
- ix. To establish, develop, construct and maintain offices, Cultural and Recreation Centres, and other buildings and facilities for administrative purposes and activities for the advancement, promotion, preservation and protection of the within objectives
- x. To ensure that all housing and other buildings are built and constructed to National Building Code standards.
- xi. To development maintain, publish and disseminate documents, forms and other materials related to housing including leases, tenancy agreements, housing policy, housing by-laws, releases, notices and other related and relevant documentation and materials regarding housing.
- xii. To develop, undertake and promote educational seminars, courses, and training regarding housing ownership, tenancy agreements, leases and related matters
- xiii. To develop, undertake and promote educational seminars, courses, and training regarding housing construction, renovation and inspections and related matters
- xiv. To develop and maintain a comprehensive database on all community housing units that includes but is not limited to information such as to what programs were accessed for building and repairs, loans outstanding, services (water, sewer, roads) available, inspection reports, condition of unit, year it was built, other requisite unit particulars and other matters in relation thereto
- xv. To develop, promote, establish and maintain policies and procedures regarding the ownership of homes and the rent-to-own of homes on the Community/First Nation Territory.

- xvi. To work with and liaise with the applicable and relevant Federal, Provincial, Municipal, Indigenous and Tribal Council governmental authorities including but not limited to housing ministries, Band Councils and corporations including the Canada Mortgage and Housing Corporation
- xvii. To educate members and the membership and general public with regard to housing issues as they pertain to the First Nation
- xviii. To participate in economic, social, scientific, cultural, political, traditional development and other programs and to secure funding through all lawful means including but not limited to the common law, the *Canada not for profit Corporations Act S.C. 2009 c.23* and any successor legislation thereto to advance the within objectives of the First Nation as set out herein
- xix. To advance, promote, preserve and protect the cultural, spiritual, economic, political and social traditions of the First Nation with particular regard to housing and related matters.
- xx. To advance, promote, preserve and protect Mother Earth and the land, water, flora and fauna of the First Nation traditional lands and traditional management and sustainability practices with regard thereto.
- xxi. To advance, promote, preserve and protect the Aboriginal rights, Treaty rights, and human rights of the First Nation.
- xxii. To hire and retain Elders, experts and other professional advisors to assist in the advancement of these within objectives.
- xxiii. To reporting to the Chief and Council, and the community at large on all aspects of the corporation's operations in order to ensure political, financial, and public accountability and operational transparency.
- xxiv. And such other complimentary purposes not inconsistent with these objects

ADOPTED at First Nation, Reserve No. this day of , 20 .

Chief

Councilor

Councilor

Councilor

11.2 By law No. 1 – Establishing A Housing Authority Corporation

BY LAW NO. 1

A by-law relating generally to the conduct of the business and affairs of

[INSERT NAME OF CORPORATION]

CONTENTS

SECTION 1 - GENERAL

SECTION 2 - MEMBERSHIP - MATTERS REQUIRING SPECIAL RESOLUTION

SECTION 3 - MEMBERSHIP DUES, TERMINATION AND DISCIPLINE

SECTION 4 - MEETINGS OF MEMBERS

SECTION 5 - DIRECTORS

SECTION 6 - MEETINGS OF DIRECTORS

SECTION 7 - OFFICERS

SECTION 8 - NOTICES

SECTION 9 - DISPUTE RESOLUTION

SECTION 10 - EFFECTIVE DATE

BE IT ENACTED as a by-law of the

CORPORATION as follows:

SECTION 1 - GENERAL

1.01 Definitions

In this by-law and all other by-laws of the Corporation, unless the context otherwise requires:

1. "Act" means the *Canada Not for profit Corporations Act* S.C. 2009, c.23 including the Regulations made pursuant to the Act, and any statute or regulations that may be substituted, as amended from time to time;
2. "articles" means the original articles of incorporation or articles of amendment, amalgamation, continuance, reorganization, arrangement or revival of the Corporation;

3. "board" means the board of directors of the Corporation and "director" means a member of the board;
4. "by-law" means this by-law and any other by-laws of the Corporation as amended and which are, from time to time, in force and effect;
5. "meeting of members" includes an annual meeting of members or a special meeting of members; "special meeting of members" includes a meeting of any class or classes of members and a special meeting of all members entitled to vote at an annual meeting of members;
6. "ordinary resolution" means a resolution passed by a majority (for example more than 50%) of the votes cast on that resolution;
7. "proposal" means a proposal submitted by a member of the Corporation that meets the requirements of section 163 (Shareholder Proposals) of the Act;
8. "Regulations" means the regulations made under the Act, as amended, restated or in effect from time to time; and
9. "special resolution" means a resolution passed by a majority of not less than two-thirds (2/3) of the votes cast on that resolution.

1.02 Interpretation

In the interpretation of this by-law, words in the singular include the plural and vice-versa, words in one gender include all genders, and "person" includes an individual, body corporate, partnership, trust and unincorporated organization.

Other than as specified in 1.01 above, words and expressions defined in the Act have the same meanings when used in these by-laws.

1.03 Corporate Seal

The Corporation may have a corporate seal in the form approved from time to time by the board. If a corporate seal is approved by the board, the secretary of the Corporation shall be the custodian of the corporate seal.

1.04 Execution of Documents

Deeds, transfers, assignments, contracts, obligations and other instruments in writing requiring execution by the Corporation may be signed by any two (2) of its officers or directors. In addition, the board may from time to time direct the manner in which and the person or persons by whom a particular document or type of document shall be executed. Any person authorized to sign any document may affix the corporate seal (if any) to the document. Any signing officer may certify a copy of any instrument, resolution, by-law or other document of the Corporation to be a true copy thereof.

1.05 Financial Year End

The financial year end of the Corporation shall be determined by the board of directors.

1.06 Banking Arrangements

The banking business of the Corporation shall be transacted at such bank, trust company or other firm or corporation carrying on a banking business in Canada or elsewhere as the board of directors may designate, appoint or authorize from time to time by resolution. The banking business or any part of it shall be transacted by an officer or officers of the Corporation and/or other persons as the board of directors may by resolution from time to time designate, direct or authorize.

1.07 Annual Financial Statements

The Corporation may, instead of sending copies of the annual financial statements and other documents referred to in subsection 172(1) (Annual Financial Statements) of the Act to the

members, publish a notice to its members stating that the annual financial statements and documents provided in subsection 172(1) are available at the registered office of the Corporation and any member may, on request, obtain a copy free of charge at the registered office or by prepaid mail.

SECTION 2 - MEMBERSHIP - MATTERS REQUIRING SPECIAL RESOLUTION

2.01 Membership Conditions

Subject to the articles, there shall be one class of members in the Corporation. Membership in the Corporation shall be available only to individuals interested in furthering the Corporation's purposes and who have applied for and been accepted into membership in the Corporation by resolution of the board or in such other manner as may be determined by the board. Each member shall be entitled to receive notice of, attend and vote at all meetings of the members of the Corporation.

Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendments to this section of the by-laws if those amendments affect membership rights and/or conditions described in paragraphs 197(1)(e), (h), (l) or (m).

2.02 Notice of Meeting of Members

Notice of the time and place of a meeting of members shall be given to each member entitled to vote at the meeting by the following means:

1. by mail, courier or personal delivery to each member entitled to vote at the meeting, during a period of 21 to 60 days before the day on which the meeting is to be held; or
2. by telephonic, electronic or other communication facility to each member entitled to vote at the meeting, during a period of 21 to 35 days before the day on which the meeting is to be held.

3. at least once in each of the 3 weeks immediately before the date of the meeting in one or more newspapers where the majority of the members of the corporation resides or
4. at least once in a publication of the Corporation that is sent to all members, during the period of 21 to 60 days before the meeting.

Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to the by-laws of the Corporation to change the manner of giving notice to members entitled to vote at a meeting of members.

2.03 Absentee Voting

Pursuant to section 171(1) (Absentee Voting) of the Act, a member entitled to vote at a meeting of members may vote by the following:

1. by proxy,
2. by mailed-in ballot, and
3. by means of telephonic, electronic or other communication facility in accordance with the Regulations.

If absentee voting is to occur by way of mailed-in ballot or by means of telephonic, electronic or other communication facility, the Corporation shall have a system that:

1. enables the votes to be gathered in a manner that permits their subsequent verification, and
2. permits the tallied votes to be presented to the Corporation without it being possible for the Corporation to identify how each member voted.

If voting is to occur by proxy, the member may appoint a proxy holder or one or more alternate proxy holders who shall also be a member. The member's nominee may attend and act at the meeting in the manner, to the extent and with the authority conferred by the proxy. A proxy shall be in writing, shall be executed by the member or by his or her attorney in writing and shall, in all other respects, be in a form that complies with the Act, the Articles and this by-law. The Corporation shall only recognize a proxy if it has been deposited with the Corporation and it shall be so deposited before any vote is taken under its authority, or at such earlier time as the board, in compliance with the Act, prescribes and which has been specified in the notice calling the meeting.

Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to the by-laws of the Corporation to change this method of voting by members not in attendance at a meeting of members.

SECTION 3 - MEMBERSHIP DUES, TERMINATION AND DISCIPLINE

3.01 Membership Dues

Members shall be notified in writing of the membership dues at any time payable by them and, if any are not paid within one (1) calendar month of the membership renewal date, the members in default shall automatically cease to be members of the Corporation.

3.02 Termination of Membership

A membership in the Corporation is terminated when:

1. the member dies, or, in the case of a member that is a corporation, the corporation is dissolved;
2. a member fails to maintain any qualifications for membership described in Section 2.01 of these by-laws;

3. the member resigns by delivering a written resignation to the chair of the board of the Corporation in which case such resignation shall be effective on the date specified in the resignation;
4. the member is expelled in accordance with Section 3.03 below or is otherwise terminated in accordance with the articles or by-laws;
5. the member's term of membership expires; or
6. the Corporation is liquidated or dissolved under the Act.

Subject to the articles, upon any termination of membership, the rights of the member, including any rights in the property of the Corporation, automatically cease to exist.

3.03 Discipline of Members

The board shall have authority to suspend or expel any member from the Corporation for any one or more of the following grounds:

1. violating any provision of the articles, by-laws, or written policies of the Corporation;
2. carrying out any conduct which may be detrimental to the Corporation as determined by the board in its sole discretion;
3. for any other reason that the board in its sole and absolute discretion considers to be reasonable, having regard to the purpose of the Corporation.

In the event that the board determines that a member should be expelled or suspended from membership in the Corporation, the president, or such other officer as may be designated by the board, shall provide twenty (20) days notice of suspension or expulsion to the member and shall provide reasons for the proposed suspension or expulsion. The member may make written submissions to the president, or such other officer as may be designated by the board, in response to the notice received within such twenty (20) day period. In the event that no written submissions

are received by the president, the president, or such other officer as may be designated by the board, may proceed to notify the member that the member is suspended or expelled from membership in the Corporation. If written submissions are received in accordance with this section, the board will consider such submissions in arriving at a final decision and shall notify the member concerning such final decision within a further twenty (20) days from the date of receipt of the submissions. The board's decision shall be final and binding on the member, without any further right of appeal.

SECTION 4 - MEETINGS OF MEMBERS

4.01 Persons Entitled to be Present

The only persons entitled to be present at a meeting of members shall be those entitled to vote at the meeting, the directors and the public accountant of the Corporation and such other persons who are entitled or required under any provision of the Act, articles or by-laws of the Corporation to be present at the meeting. Any other person may be admitted only on the invitation of the chair of the meeting or by resolution of the members.

4.02 Chair of the Meeting

In the event that the chair of the board and the vice-chair of the board are absent, the members who are present and entitled to vote at the meeting shall choose one of their number to chair the meeting.

4.03 Quorum

A quorum at any meeting of the members (unless a greater number of members are required to be present by the Act) shall be 10% of the members entitled to vote at the meeting. If a quorum is present at the opening of a meeting of members, the members present may proceed with the business of the meeting even if a quorum is not present throughout the meeting.

4.04 Votes to Govern

At any meeting of members every question shall, unless otherwise provided by the articles or by-laws or by the Act, be determined by a majority of the votes cast on the question. In case of an equality of votes either on a show of hands or on a ballot or on the results of electronic voting, the chair of the meeting in addition to an original vote shall have a second or casting vote.

SECTION 5 - DIRECTORS

5.01 Qualifications, Election and Term

Each director shall be an individual who is not less than 18 years of age. No person who is of unsound mind and has been so found by a court in Canada or elsewhere or who has the status of a bankrupt shall be a director. If a director acquires the status of a bankrupt or becomes of unsound mind and is so found, he or she shall thereupon cease to be a director.

Subject to the articles, the members will elect the directors at the first meeting of members and at each succeeding annual meeting at which an election of directors is required, and the directors shall be elected to hold office for a term expiring not later than the close of the third annual meeting of members following the election.

The board of directors may appoint additional directors for a term expiring not later than the close of the next annual meeting of members but the total number of directors appointed may not exceed 1/3 of the number of directors elected at the previous annual meeting. The precise number of directors to be appointed in this manner may be fixed by ordinary resolution of the members.

Subject to the provisions of the Act, the Articles and this by-law, the members may by ordinary resolution passed as an annual or special meeting of the members, remove any director from office before the expiration of his or her terms and may elect a qualified individual to fill the resulting vacancy for the remainder of the terms of the director so removed failing which the vacancy may be filled by resolution of the board.

5.02 Standard of Care

Every director and officer of the Corporation in exercising their powers and discharging their duties shall act honestly and in good faith with a view to the best interests of the Corporation and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Every director an officer of the Corporation shall comply with the Act, the regulations, articles, and by-laws.

5.03 Indemnification of directors and officers

The Corporation shall indemnify a director or officer of the Corporation, a former director or officer of the Corporation or a person who acts or acted at the Corporation's request as a director or officer of a body corporate of which the Corporation is or was a shareholder or creditor, and his/her heirs and legal representatives to the extent permitted by section 151 of the Act.

5.04 Indemnity of others

Except as otherwise required by the Act and subject to section 151 of the Act, the Corporation may from time to time indemnify and save harmless any person who was or is a party or is threatened to be made a party to any threatened, pending or completed activity, suit or proceeding, whether civil, criminal, administrative or investigative (other than an activity by or in the right of the Corporation) by reason of the fact that he or she is an employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, agent of or participant in another body corporate, partnership, joint venture, trust or other enterprise, against expenses (including legal fees), judgments, fines and any amount actually and reasonably incurred by him/her in connection with such activity, suit or proceeding if he/she acted honestly and in good faith with a view to the best interests of the Corporation and, with respect to any is enforced by a monetary penalty, had reasonable grounds for believing that his/her conduct was lawful. The termination of any activity, suit or proceeding by judgment, order, settlement or conviction shall not, of itself, create a

presumption that the person did not act honestly and in good faith with a view to the best interests of the Corporation and, with respect to any criminal or administrative activity or proceeding that is enforced by a monetary penalty, had no reasonable grounds for believing that his/her conduct was lawful.

5.05 Right of indemnity not exclusive

The provisions for indemnification contained in the by-laws of the Corporation shall not be deemed exclusive of any other rights to which any person seeking indemnification may be entitled under any agreement, legislation, vote of the members or directors or otherwise, both as to activity in his/her official capacity and as to activity in another capacity, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs and legal representatives of such a person.

5.06 No liability of directors or officers for certain matters

To the extent permitted by the by-laws and the Act, no director or officer for the time being of the Corporation shall be liable for the acts, receipts, neglects or defaults of any other director or officer or employee or for joining in any receipt or act for conformity or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by the Corporation or for or on behalf of the Corporation or for the insufficiency or deficiency of any security in or upon which any of the moneys of or belonging to the Corporation shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or body corporate with whom or which any moneys, securities or other assets belonging to the Corporation shall be lodged or deposited or for any loss, conversion, misapplication or misappropriation of or any damage resulting from any dealings with any moneys, securities or other assets belonging to the Corporation or for any other loss, damage or misfortune whatever that may happen in the execution of the duties of his/ her respective office or trust or in relation thereto unless the same shall happen by or through his/ her failure to act honestly and in good faith with a view to the best interests of the Corporation and in connection therewith to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. If any director or officer of the Corporation shall be employed by or shall perform services for the Corporation otherwise than as a director or officer or shall be a member of a firm or a shareholder, director or officer of a body corporate that is employed by or performs services for the Corporation, the fact of his/her being a director or officer of the Corporation shall not disentitle such director or officer or such firm or body corporate, as the case may be, from receiving proper remuneration for such services.

SECTION 6 - MEETINGS OF DIRECTORS

6.01 Calling of Meetings

Meetings of the board may be called by the chair of the board, the vice-chair of the board or any two (2) directors at any time; provided that, for the first organization meeting following incorporation, such meeting may be called by any director or incorporator. If the Corporation has only one director, that director may call and constitute a meeting.

6.02 Notice of Meeting

Notice of the time and place for the holding of a meeting of the board shall be given to every director of the Corporation not less than 7 days before the time when the meeting is to be held by one of the following methods:

1. delivered personally to the latest address as shown in the last notice that was sent by the Corporation in accordance with section 128 (Notice of directors) or 134 (Notice of change of directors);
2. mailed by prepaid ordinary mail to the director's address as set out in (a);
3. by telephonic, electronic or other communication facility at the director's recorded address for that purpose; or
4. by an electronic document in accordance with Part 17 of the Act.

Notice of a meeting shall not be necessary if all of the directors are present, and none objects to the holding of the meeting, or if those absent have waived notice of or have otherwise signified their consent to the holding of such meeting. Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original meeting. Unless the by-law otherwise provides, no notice of meeting need specify the purpose or the business to be transacted at the meeting except that a notice of meeting of directors shall specify any matter referred to in subsection 138(2) (Limits on Authority) of the Act that is to be dealt with at the meeting.

6.03 Regular Meetings

The board may appoint a day or days in any month or months for regular meetings of the board at a place and hour to be named. A copy of any resolution of the board fixing the place and time of such regular meetings of the board shall be sent to each director forthwith after being passed, but no other notice shall be required for any such regular meeting except if subsection 136(3)(Notice of Meeting) of the Act requires the purpose thereof or the business to be transacted to be specified in the notice.

6.04 Votes to Govern

Unless otherwise required by the Act or the articles of the Corporation, questions arising at any meeting of the members shall be decided by a consensus of the members present at the meeting. A consensus will be considered to have been reached when no member objects to the question on the floor before the meeting.

Should the chair of the meeting determine, after a reasonable effort to achieve consensus has been made, that a consensus will not be reached regarding a particular question then the chair shall refer the question to be decided by a majority vote of the members. In case of an equality of votes, the chair of the meeting in addition to an original vote shall have a second or casting vote.

6.05 Disclosure - Conflict of Interest

A director or officer who is a party to, or who is a director or an officer of, or has a material interest in any person who is a party to, a material contractor transaction or proposed transaction or any matter regarding the business of the Corporation shall, disclose on writing to the Corporation or request to be entered in the Minutes of meetings of directors the nature and extent of his or her interest. Disclosure, as aforesaid shall be made at the time and in the manner required by the Act, the Articles or this by-law and a director so having an interest shall not vote on any resolution that is the subject of the interest.

6.06 Committees

The board may from time to time appoint any committee or other advisory body, as it deems necessary or appropriate for such purposes and, subject to the Act, with such powers as the board shall see fit. Any such committee may formulate its own rules of procedure, subject to such regulations or directions as the board may from time to time make. Any committee member may be removed by resolution of the board of directors.

SECTION 7 - OFFICERS

7.01 Description of Offices

Unless otherwise specified by the board which may, subject to the Act modify, restrict or supplement such duties and powers, the offices of the Corporation, if designated and if officers are appointed, shall have the following duties and powers associated with their positions:

1. **Chair of the Board** - The chair of the board, if one is to be appointed, shall be a director. The chair of the board, if any, shall, when present, preside at all meetings of the board of directors and of the members. The chair shall have such other duties and powers as the board may specify.

2. **Vice-Chair of the Board** - The vice-chair of the board, if one is to be appointed, shall be a director. If the chair of the board is absent or is unable or refuses to act, the vice-chair of the board, if any, shall, when present, preside at all meetings of the board of directors and of the members. The vice-chair shall have such other duties and powers as the board may specify.
3. **President** - If appointed, the president shall be the chief executive officer of the Corporation and shall be responsible for implementing the strategic plans and policies of the Corporation. The president shall, subject to the authority of the board, have general supervision of the affairs of the Corporation.
4. **Secretary** - If appointed, the secretary shall attend and be the secretary of all meetings of the board, members and committees of the board. The secretary shall enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings; the secretary shall give, or cause to be given, as and when instructed, notices to members, directors, the public accountant and members of committees; the secretary shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation.
5. **Treasurer** - If appointed, the treasurer shall have such powers and duties as the board may specify.

The powers and duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the board or president requires of them. The board may, from time to time and subject to the Act, vary, add to or limit the powers and duties of any officer.

7.02 Vacancy in Office

In the absence of a written agreement to the contrary, the board may remove, whether for cause or without cause, any officer of the Corporation. Unless so removed, an officer shall hold office until the earlier of:

1. the officer's successor being appointed,
2. the officer's resignation,
3. such officer ceasing to be a director (if a necessary qualification of appointment) or
4. such officer's death.

If the office of any officer of the Corporation shall be or become vacant, the directors may, by resolution, appoint a person to fill such vacancy.

SECTION 8 - NOTICES

8.01 Method of Giving Notices

Any notice (which term includes any communication or document) to be given (which term includes sent, delivered or served), other than notice of a meeting of members or a meeting of the board of directors, pursuant to the Act, the articles, the by-laws or otherwise to a member, director, officer or member of a committee of the board or to the public accountant shall be sufficiently given:

1. if delivered personally to the person to whom it is to be given or if delivered to such person's address as shown in the records of the Corporation or in the case of notice to a director to the latest address as shown in the last notice that was sent by the Corporation in accordance with section 128 (Notice of directors) or 134 (Notice of change of directors); or
2. if mailed to such person at such person's recorded address by prepaid ordinary or air mail; or
3. if sent to such person by telephonic, electronic or other communication facility at such person's recorded address for that purpose; or
4. if provided in the form of an electronic document in accordance with Part 17 of the Act.

A notice so delivered shall be deemed to have been given when it is delivered personally or to the recorded address as aforesaid; a notice so mailed shall be deemed to have been given when deposited in a post office or public letter box; and a notice so sent by any means of transmitted or recorded communication shall be deemed to have been given when dispatched or delivered to the appropriate communication company or agency or its representative for dispatch. The secretary may change or cause to be changed the recorded address of any member, director, officer, public accountant or member of a committee of the board in accordance with any information believed by the secretary to be reliable. The declaration by the secretary that notice has been given pursuant to this by-law shall be sufficient and conclusive evidence of the giving of such notice.

The signature of any director or officer of the Corporation to any notice or other document to be given by the Corporation may be written, stamped, type-written or printed or partly written, stamped, type-written or printed.

8.02 Invalidity of any provisions of this by-law

The invalidity or unenforceability of any provision of this by-law shall not affect the validity or enforceability of the remaining provisions of this by-law

8.03 Omissions and Errors

The accidental omission to give any notice to any member, director, officer, member of a committee of the board or public accountant, or the non-receipt of any notice by any such person where the Corporation has provided notice in accordance with the by-laws or any error in any notice not affecting its substance shall not invalidate any action taken at any meeting to which the notice pertained or otherwise founded on such notice.

SECTION 9 - DISPUTE RESOLUTION

9.01 Mediation and Arbitration

Disputes or controversies among members, directors, officers, committee members, or volunteers of the Corporation are as much as possible to be resolved in accordance with mediation and/or arbitration as provided in Section 9.02 of this by-law.

9.02 Dispute Resolution Mechanism

In the event that a dispute or controversy among members, directors, officers, committee members or volunteers of the Corporation arising out of or related to the articles or by-laws, or out of any aspect of the operations of the Corporation is not resolved in private meetings between the parties, then without prejudice to or in any other way derogating from the rights of the members, directors, officers, committee members, employees or volunteers of the Corporation as set out in the articles, by-laws or the Act, and as an alternative to such person instituting a law suit or legal action, such dispute or controversy shall be settled by a process of dispute resolution as follows:

1. The dispute or controversy shall first be submitted to a panel of mediators whereby the one party appoints one mediator, the other party (or if applicable the board of the Corporation) appoints one mediator, and the two mediators so appointed jointly appoint a third mediator. The three mediators will then meet with the parties in question in an attempt to mediate a resolution between the parties.
2. The number of mediators may be reduced from three to one or two upon agreement of the parties.
3. If the parties are not successful in resolving the dispute through mediation, then the parties agree that

the dispute shall be settled by arbitration before a single arbitrator, who shall not be any one of the mediators referred to above, in accordance with the legislation governing domestic arbitrations in force in the province of [Ontario] or as otherwise agreed upon by the parties to the dispute. The parties agree that all proceedings relating to arbitration shall be kept confidential and there shall be no disclosure of any kind. The decision of the arbitrator shall be final and binding and shall not be subject to appeal on a question of fact, law or mixed fact and law.

4. All costs of the mediators appointed in accordance with this section shall be borne equally by the parties to the dispute or the controversy. All costs of the arbitrators appointed in accordance with this section shall be borne by such parties as may be determined by the arbitrators.

SECTION 10 - EFFECTIVE DATE

10.01 Effective Date

Subject to matters requiring a special resolution, this by-law shall be effective when made by the board.

CERTIFIED to be By-Law No. 1 of the Corporation, as enacted by the directors of the Corporation by resolution on the th day of , 20 and confirmed by the members of the Corporation by special resolution on the day of , 20 .

Dated as of the th day of , 20 .

President

Secretary

11.3 Housing Authority Objectives

HOUSING AUTHORITY OBJECTIVES

1. To establish, construct and maintain affordable, quality housing and other buildings and facilities for members of the Community/First Nation
2. To establish, construct and maintain affordable, quality housing and other buildings and facilities for Elders and disabled members of the Community/First Nation
3. To establish, construct and maintain affordable, quality rental housing and rent-to-own housing and facilities for members, Elders and disabled members of the Community/First Nation
4. To establish and promote social service housing, income support, and assisted care for members, Elders and disabled members of the Community/First Nation as required and as needed
5. To identify community need and to determining the social portfolio of the community by assessing living and housing conditions and investigating the means and methods of improving these conditions
6. To develop, implement, and monitor long-term planning for community housing
7. To oversee and enable the operation and maintenance of Community/First Nation housing projects and programs, including fulfilling all administrative duties traditionally associated with the development and management of social housing programs
8. To publish and disseminate information in various media formats including but not limited to written, electronic, television, radio, internet and other media with regard to housing, construction practices, inspection practices, standards, repairs, renovations and other educational material regarding housing
9. To establish, develop, construct and maintain offices, Cultural and Recreation Centres, and other buildings and facilities for administrative purposes and activities for the advancement, promotion, preservation and protection of the within objectives
10. To ensure that all housing and other buildings are built and constructed to National Building Code standards.
11. To development maintain, publish and disseminate documents, forms and other materials related to housing including leases, tenancy agreements, housing policy, housing by-laws, releases, notices and other related and relevant documentation and materials regarding housing.
12. To develop, undertake and promote educational seminars, courses, and training regarding housing ownership, tenancy agreements, leases and related matters

13. To develop, undertake and promote educational seminars, courses, and training regarding housing construction, renovation and inspections and related matters
14. To develop and maintain a comprehensive database on all community housing units that includes but is not limited to information such as to what programs were accessed for building and repairs, loans outstanding, services (water, sewer, roads) available, inspection reports, condition of unit, year it was built, other requisite unit particulars and other matters in relation thereto
15. To develop, promote, establish and maintain policies and procedures regarding the ownership of homes and the rent-to-own of homes on the Community/First Nation Territory.
16. To work with and liaise with the applicable and relevant Federal, Provincial, Municipal, Indigenous and Tribal Council governmental authorities including but not limited to housing ministries, Band Councils and corporations including the Canada Mortgage and Housing Corporation
17. To educate members and the membership and general public with regard to housing issues as they pertain to the Community/First Nation
18. To participate in economic, social, scientific, cultural, political, traditional development and other programs and to secure funding through all lawful means including but not limited to the common law, the *Canada Not for profit Corporations Act S.C. 2009 c.23* and any successor legislation thereto to advance the within objectives of the Community/First Nation as set out herein
19. To advance, promote, preserve and protect the cultural, spiritual, economic, political and social traditions of the Community/First Nation with particular regard to housing and related matters.
20. To advance, promote, preserve and protect Mother Earth and the land, water, flora and fauna of the Community/First Nation traditional lands and traditional management and sustainability practices with regard thereto
21. To advance, promote, preserve and protect the Aboriginal rights, Treaty rights, and human rights of the Community/First Nation.
22. To hire and retain Elders, experts and other professional advisors to assist in the advancement of these within objectives
23. To reporting to the Chief and Council, and the community at large on all aspects of the corporation's operations in order to ensure political, financial, and public accountability and operational transparency.
24. And such other complimentary purposes not inconsistent with these objects

11.4 Resolution of the Board of Directors

RESOLUTION OF THE BOARD OF DIRECTORS
OF
[INSERT NAME OF CORPORATION]

BY LAW NO. 1

BE IT RESOLVED THAT:

By-law No.1 of the Corporation, being a by-law regulating the business and affairs of the corporation, is hereby made

The proper officers of the Corporation be authorised and directed to sign By-law No. 1 and place such by law for approval at a general or special meeting of the members.

The undersigned being the authorised and proper officers of the Corporation, hereby sign the foregoing resolution in accordance with the *Canada Not for Profit Corporations Act*.

Dated:

11.5 Consent to Act as First Director

CONSENT TO ACT AS FIRST DIRECTOR

I, **[INSERT NAME OF DIRECTOR]**

address for service

[INSERT ADDRESS FOR SERVICE]

hereby consent to act as a first director of

the **[INSERT NAME OF CORPORATION]**

Name and signature

11.6 Resolution of the Board of Directors – Banking Bylaw

RESOLUTION OF THE BOARD OF DIRECTORS

OF

[INSERT NAME OF CORPORATION]

BE IT RESOLVED THAT:

BANKING

BE IT RESOLVED THAT the proper officers of the Corporation be authorised and directed to execute and deliver to the Corporation=s bankers such banking documents as are requisite or necessary in order to operate and account or accounts with such bankers.

The undersigned being the authorised and proper officers of the Corporation, hereby sign the foregoing resolution in accordance with the *Canada Not for Profit Corporations Act*.

Dated:

President



Articles of Incorporation

Canada Not for profit Corporations

Act (NFP Act)

Formulaire 4001

Statuts constitutifs

Loi canadienne sur les organisations à but non lucratif (Loi BNL)

1 Corporate name

Dénomination de l'organisation

2 The province or territory in Canada where the registered office is situated

La province ou le territoire au Canada où est maintenu le siège

3 Minimum and maximum number of directors

Nombres minimal et maximal d'administrateurs

Min. 1 Max. 15

4 Statement of the purpose of the corporation

Déclaration d'intention de l'organisatio

See attached schedule / Voir l'annexe ci-jointe

5 Restrictions on the activities that the corporation may carry on, if any

Limites imposées aux activités de l'organisation, le cas échéant

None

6 The classes, or regional or other groups, of members that the corporation is authorized to establish

Les catégories, groupes régionaux ou autres groupes de membres que l'organisation est autorisée à établir

See attached schedule / Voir l'annexe ci-jointe

7 Statement regarding the distribution of property remaining on liquidation

Déclaration relative à la répartition du reliquat des biens lors de la liquidation

See attached schedule / Voir l'annexe ci-jointe

8 Additional provisions, if any

Dispositions supplémentaires, le cas échéant

See attached schedule / Voir l'annexe ci-jointe

Declaration: I hereby certify that I am an incorporator of the corporation.

Déclaration : J'atteste que je suis un fondateur de l'organisation.

Name(s) - Nom(s) Signature

A person who makes, or assists in making, a false or misleading statement is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both (subsection 262(2) of the NFP Act).

La personne qui fait une déclaration fautive ou trompeuse, ou qui aide une personne à faire une telle déclaration, commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 5 000 \$ et un emprisonnement maximal de six mois ou l'une de ces peines (paragraphe 262(2) de la Loi BNL).

You are providing information required by the NFP Act. Note that both the NFP Act and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in personal information bank number IC/PPU-049.

Vous fournissez des renseignements exigés par la Loi BNL. Il est à noter que la Loi BNL et la *Loi sur les renseignements personnels* permettent que de tels renseignements soient divulgués au public. Ils seront stockés dans la banque de renseignements personnels numéro IC/PPU-049.

IC 3419 (2008/04)

**Schedule /
Annexe**

**Purpose Of Corporation / Déclaration d'intention de
l'organisation**

25. To establish, construct and maintain affordable, quality housing and other buildings and facilities for members of the Community/First Nation
 - 26.
 27. To establish, construct and maintain affordable, quality housing and other buildings and facilities for Elders and disabled members of the Community/First Nation
-
28. To establish, construct and maintain affordable, quality rental housing and rent-to-own housing and facilities for members, Elders and disabled members of the Community/First Nation

29. To establish and promote social service housing, income support, and assisted care for members, Elders and disabled members of the Community/First Nation as required and as needed
30. To publish and disseminate information in various media formats including but not limited to written, electronic, television, radio, internet and other media with regard to housing, construction practices, inspection practices, standards, repairs, renovations and other educational material regarding housing
31. To establish, develop, construct and maintain offices, Cultural and Recreation Centres, and other buildings and facilities for administrative purposes and activities for the advancement, promotion, preservation and protection of the within objectives
32. To ensure that all housing and other buildings are built and constructed to National Building Code standards.
33. To development maintain, publish and disseminate documents, forms and other materials related to housing including leases, tenancy agreements, housing policy, housing by-laws, releases, notices and other related and relevant documentation and materials regarding housing.
34. To develop, undertake and promote educational seminars, courses, and training regarding housing ownership, tenancy agreements, leases and related matters
35. To develop, undertake and promote educational seminars, courses, and training regarding housing construction, renovation and inspections and related matters
36. To develop and maintain a comprehensive database on all community housing units that includes ut is not limited to information such as to what programs were accessed for building and repairs, loans outstanding, services (water, sewer, roads) available, inspection reports, condition of unit, year it was built, other requisite unit particulars and other matters in relation thereto
37. To develop, promote, establish and maintain policies and procedures regarding the ownership of homes and the rent-to-own of homes on the Community/First Nation Territory.

38. To work with and liaise with the applicable and relevant Federal, Provincial, Municipal, Indigenous and Tribal Council governmental authorities including but not limited to housing ministries, Band Councils and corporations including the Canada Mortgage and Housing Corporation
39. To educate members and the membership and general public with regard to housing issues as they pertain to the Community/First Nation
40. To participate in economic, social, scientific, cultural, political, traditional development and other programs and to secure funding through all lawful means including but not limited to the common law, the *Canada Not for profit Corporations Act S.C. 2009 c.23* and any successor legislation thereto to advance the within objectives of the Community/First Nation as set out herein
41. To advance, promote, preserve and protect the cultural, spiritual, economic, political and social traditions of the Community/First Nation with particular regard to housing and related matters.
42. To advance, promote, preserve and protect Mother Earth and the land, water, flora and fauna of the Community/First Nation traditional lands and traditional management and sustainability practices with regard thereto
43. To advance, promote, preserve and protect the Aboriginal rights, Treaty rights, and human rights of the Community/First Nation.
44. To hire and retain Elders, experts and other professional advisors to assist in the advancement of these within objectives
45. And such other complimentary purposes not inconsistent with these objects

**Schedule /
Annexe**

Classes of Members / Catégories de membres

The Corporation is authorized to establish one class of members. Each member shall be entitled to receive notice of, attend and vote at all meetings of the members of the Corporation.

Distribution of Property on Liquidation / Répartition du reliquat des biens lors de la liquidation

Any property remaining on liquidation of the Corporation, after discharge of liabilities, shall be distributed to one or more qualified donees within the meaning of subsection 248(1) of the Income Tax Act.

Additional Provisions / Dispositions supplémentaires

If authorized by a by-law which is duly adopted by the directors and confirmed by ordinary resolution of the members, the directors of the corporation may from time to time:

1. borrow money on the credit of the corporation;
2. issue, reissue, sell, pledge or hypothecate debt obligations of the corporation; and
3. mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the corporation, owned or subsequently acquired, to secure any debt obligation of the corporation.

Any such by-law may provide for the delegation of such powers by the directors to such officers or directors of the corporation to such extent and in such manner as may be set out in the by- law.

Nothing herein limits or restricts the borrowing of money by the corporation on bills of exchange or promissory notes made, drawn, accepted or endorse

NOTE: THIS FORM CAN BE FOUND ON LINE AT

<https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs04977.html>

11.8 Funding Agreement

FUNDING AGREEMENT

BETWEEN

_____FIRST NATION

- and -

_____HOUSING AUTHORITY

WHEREAS the First Nation (hereinafter AFirst Nation@) maintains that it has, since time immemorial, been and is a sovereign nation and affirms its inherent right to self government by designating the Chief and Council to act on its behalf;

AND WHEREAS on or about the th day of 2018 the First Nation established the Housing Authority (hereinafter A Housing Authority) to, among other objectives, regulate residency and housing on reserve and in particular the allocation, use and occupancy of First Nation owned and other houses on reserve;

AND WHEREAS the First Nation receives, from time to time, funding and other monies for the operation of it=s government and the provision of programs and services to it=s members;

AND WHEREAS the Chief and Council of the First Nation recognize and agree that the Housing Authority as an independent organization requires funding to operate and provide its programs and services to the members of the First Nation;

AND WHEREAS the Housing Authority wishes to receive funding from the First Nation to operate and provide its programs and services to the members of the First Nation.

NOW THEREFORE this Funding Agreement (the "Agreement") is made and entered into as of the th day of 20___, by and between the First Nation and the Housing Authority.

Term of Agreement

10. The term of this Agreement will be from _____ until _____.

11. The fiscal year under this Agreement begins April 1st of a calendar year and ends March 31st of the next calendar year unless otherwise agreed to in writing by the parties.

12. The First Nation will transfer amounts to the Housing Authority according to the time frames and amounts as set out in schedule “A” attached to this Agreement.
13. If this Agreement covers more than one fiscal year, the First Nation will for each new fiscal year of this Agreement provide by notice a revised Schedule “A” setting out the schedule of payment for the fiscal year.
14. The Housing Authority must provide the Programs and Services and carry out the Activities and Projects for which funding is provided under this Agreement in accordance with Schedule A attached hereto.
15. The First Nation may, upon reasonable notice and in consultation with the Housing Authority:
 - (i) make adjustments to the schedule of payments for a fiscal year if requested by the Housing Authority;
 - (ii) increase or decrease funding for a fiscal year;
 - (iii) withhold any amounts of funding until the terms and conditions of this Agreement are met or the terms and conditions of other source Agreements are met and/or satisfied
 - (iii) terminate funding by giving the Housing Authority 120 calendar days notice before payment is made if any program or service on which the funding is based is changed or terminated by any provincial or federal government, Tribal Council or the First Nation.
 - (iv) terminate funding or withhold funding if any other government or other source duplicates funding under this Agreement

Termination of Agreement

16. Either the First Nation or the Housing Authority may by notice terminate this Agreement other than for default if the First Nation and the Housing Authority agree on a time line for terminating this Agreement that will minimize the impact on delivery of the programs, services, projects, activities and objectives as contemplated by this Agreement.

17. If this Agreement is terminated, the Housing Authority must:
 - (i) refund any unexpended funding;
 - (ii) refund any debt owing and payable to the First Nation; and
 - (iii) refund amounts specified in a notice requiring a refund.
18. If this Agreement is terminated, the First Nation must pay to the Housing Authority any amount owed to the Housing Authority up to the termination date of this Agreement unless the parties to this Agreement agree otherwise in writing.

Audits

19. At any time during the term of this Agreement or within five years of its expiry or termination, the First Nation may carry out one or more audits evaluations or reviews of the Housing Authority, for any or all of the following purposes:
 - (i) to assess the effectiveness of any or all of the Programs, Services, Activities and Projects funded under this Agreement;
 - (ii) to review the Housing Authority=s management practices including program management practices;
 - (iii) to review the Housing Authority=s financial controls;
 - (iv) to assess compliance with this Agreement; and
 - (v) to confirm that information reported to the First Nation is complete and accurate.
20. Any audit, evaluation or review under this Agreement may be carried out by one or more auditors, evaluators or officers employed by or on contract with the First Nation.
21. The Housing Authority will cooperate in any audit, evaluation or review under this Agreement by:
 - (i) providing all necessary assistance to the auditor, evaluator or officer;
 - (ii) providing access to all requested accounts and records relating to this Agreement including original supporting documents;
 - (iii) providing access to any premises under the First Nation's control;

- (iv) allowing the auditor, evaluator or officer to inspect accounts and records and, except where prohibited by law, to take copies or extracts of those accounts and records; and
 - (v) providing any additional information the auditor, evaluator or officer may require in respect of the accounts and records.
22. If requested by the auditor, evaluator or officer, the Housing Authority will
- (i) direct anyone that has provided accounting or record keeping services to the First Nation to provide original supporting documents of those accounts and records to the auditor, evaluator or officer; and
 - (ii) give consent to the First Nation's independent auditor to give the auditor, evaluator or officer access to the working papers that support the independent auditor's opinion or disclaimer of opinion.

Reporting

23. The First Nation may establish, upon consultation with the Housing Authority, guidelines, time frames, format and deadlines for reporting to the Chief and Council and the Community regarding the activities of the Housing Authority and its activities regarding the funding as provided pursuant to this Agreement.
24. The Housing Authority will keep all financial and non-financial records that may be required to prepare reports under this Agreement and to complete any audits, evaluations or reviews under this Agreement.

Default by Housing Authority

25. The Housing Authority may be in default of this Agreement under any of the following circumstances:
- (i) the Housing Authority does not fulfill any obligation under this Agreement;
 - (ii) the First Nation's auditor gives a disclaimer of opinion or adverse opinion on the financial statements of the Housing Authority;

- (iii) the Housing Authority's financial position puts the delivery of any Program, Service or Activity or any Project for which funding is provided at risk;
 - (iv) the First Nation determines that the health, safety or welfare of First Nation community members is at risk; and
 - (v) the Housing Authority is in default under any other funding agreement with the First Nation or any other entity
26. If it is reasonably necessary in the event of a default, the First Nation may, by reasonable notice to the Housing Authority take any or all of the following actions:
- (i) require that within 60 calendar days the Housing Authority establish a management action plan acceptable to the First Nation;
 - (ii) require the Housing Authority to seek advisory support acceptable to the First Nation;
 - (iii) appoint a third party funding manager and/or other advisory support to administer, in whole or in part, funding otherwise payable to the Housing Authority and to manage the Housing Authority's obligations under this Agreement;
 - (iv) withhold funding under this Agreement;
 - (v) require other actions to remedy the default including dispute resolution; and
 - (vi) terminate this Agreement.

Dispute Resolution

27. Should any dispute, controversy, claim or matters in question arise from or be related to this Agreement or the breach of this Agreement, the parties agree to apply the following mechanism to resolve such dispute, controversy, claim or matter in question:
- (i) **Good Faith Negotiations.** Any party may notify the other party of a dispute, controversy or claim (dispute). The parties and/or their representatives shall discuss the dispute in person or by telephone and each shall attempt, in good faith, to resolve the matter in a fashion reasonably acceptable to all parties.

- (ii) Mediation. If the parties are unable to mutually resolve the dispute through good faith negotiations, the parties may refer the dispute to non binding mediation. The parties shall select a single mediator acceptable to all parties. If a mediator cannot be selected within three (3) days after the dispute is submitted, each party will propose two mediators each and the mediator shall be chosen by a blind draw. The mediator shall set a full day for mediation as soon as possible. The parties shall appear at the mediation session in person or through a representative and a person with authority to make final and binding decisions shall be designated by each party and shall be present in person or by telephone for the full mediation session. The parties shall mediate the dispute in good faith and attempt to reach a mutual agreed upon resolution. The parties shall equally share in the cost of the mediation. Each party is responsible for its own legal fees incurred in preparation for and attending the mediation.
- (iii) Arbitration. If the dispute is not resolved within five (5) days following the mediation, the dispute shall be decided by a single Arbitrator in accordance with the Arbitrations Act, 1991 (Ontario) unless the parties mutually agree otherwise in writing. Any of the parties may begin the arbitration by written notice to the other party. The award of the arbitrator may be entered as a judgment in any court of competent jurisdiction. Any such arbitration shall be conducted in the First Nation Territory or any other place the parties may agree in writing. The Prevailing party shall be entitled to collect all of its costs, expenses, and reasonable legal fees from the other party.

Notice

28. Any Notice under this Agreement, must be in writing and shall be dated as of the date of:
- (i) delivery for notices delivered in person;
 - (ii) acknowledgment of receipt for notices by registered mail or courier; and
 - (iii) transmittal for notices by facsimile or email.

Notice to the First Nation shall be sent to:

Notice to the Housing Authority shall be sent to:

Miscellaneous

29. If exceptional circumstances occur during the term of this Agreement which were not

reasonably foreseeable at the date this Agreement came into effect and which have a significant impact on Housing Authority's performance of this Agreement, the Housing Authority may request changes to the level of funding for the affected program, service, activity or project or other assistance. If the First Nation agrees to change the level of funding, that change will be made by way of an amendment to this Agreement.

30. Notwithstanding any other provision of this Agreement, funding under this Agreement is subject to the ability of the First Nation to provide funding from its sources which include but may not be limited to Federal and Provincial funding and other sources of funding. The First Nation may change or terminate funding under this Agreement if the Federal or Provincial governments reduce or deny funding to the First Nation.
31. The Housing Authority's obligations in respect of indemnification, record keeping, reporting, refunds, use of unexpended funding and cooperation with audits, evaluation and reviews survive the termination or expiry of this Agreement.
32. This "Agreement" includes all Annexes and any amendments.
33. This Agreement may be amended by way of a notice to the Housing Authority to:
 - (i) extend reporting deadlines;
 - (ii) approve adjustments to the timing of payments;
 - (iii) adjust the maximum funding in accordance with any adjustment factors set out in Schedule A ; and
 - (iv) adjust Schedule A as permitted under this Agreement.
34. This Agreement is the entire agreement between the First Nation and the Housing Authority regarding funding for the Programs, Services, Activities and Projects set out in Schedule A and replaces any previous agreements, commitments, negotiations or discussions.
35. This Agreement does not create any agency, association, joint venture or employer-employee relationship between the First Nation and the Housing Authority
36. The Housing Authority will indemnify the First Nation, and its officers, employees, agents, servants and successors from any claims, demands and liabilities arising from:

- (i) any breach of this Agreement by the First Nation;
 - (ii) acts, omissions or negligence of the Housing Authority or any agent of the First Nation in connection with this Agreement.
 - (iii) acts, omissions or negligence of the Housing Authority arising out of any breaches of its corporate mandate and the implementation of its aims, purposes and objectives and;
 - (iv) acts, omissions or negligence of any of the officers, directors, employees, agents, assigns or successors of the Housing Authority
37. The Housing Authority will indemnify and save harmless the First Nation from any claims, demands and liabilities arising from any breach of this Agreement by the Housing Authority.
38. Any waiver of a right to take action under this Agreement must be in writing and does not affect a right to take action on a future occasion.
39. This Agreement will be interpreted in accordance with the laws of Canada and the applicable laws of the Province or Territory in which the Programs and Services are provided and Activities and Projects are carried out.

Further Assurances.

40. The parties shall, with reasonable diligence, do all things and provide all reasonable assurances as may be required to complete the terms and conditions contemplated by this Agreement, and each party shall provide such further documents or instruments required by any other party as may be reasonably necessary or desirable to give effect to this Agreement and carry out its provisions.

Assignment.

41. Except as otherwise expressly provided herein, neither this Agreement nor any rights or obligations shall be assignable by either party without the prior written consent of the other party hereto.

Amendment and Waiver.

42. No supplement, modification, amendment or waiver of this Agreement shall be binding unless executed in writing by both parties. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

Successors and Assigns.

43. This Agreement shall ensure to the benefit of and be binding upon the parties and their respective heirs, executors and administrators or successors and permitted assigns, as the case may be.

Severability.

44. If any provision in this Agreement is determined to be invalid, void or unenforceable by the decision of any court of competent jurisdiction, which determination is not appealed or appealable for any reason whatsoever, the provision in question shall not be deemed to affect or impair the validity or enforceability of any other provision of this Agreement and such invalid or unenforceable provision or portion thereof shall be severed from

Independent Legal Advice.

45. The parties acknowledge that they have been advised to obtain, and that they have obtained or have been afforded the opportunity to obtain, independent legal advice with respect to this Agreement and that they understand the nature and consequences of this Agreement.

Proper Law of Contract

46. This Contract shall be governed by and construed under the laws of the First Nation wherein this contract is executed and any applicable laws of the province or Territory where the First Nation is located and federal laws of Canada as applicable.

Force Majeure

47. Neither Party shall be responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, acts of God, strikes, slowdowns, picketing, boycotts, or any other circumstances beyond its reasonable control and not involving any fault or negligence of the Party affected (condition). If any such condition occurs, the Party delayed or unable to perform ("Delayed Party") shall promptly give written notice to the other Party. If such condition remains at the end of (30) thirty days, the Party affected by the other's delay or inability to perform ("Affected Party") may elect to (i) terminate the Agreement or (ii) suspend the Agreement for the duration of the condition, and require the Delayed Party to resume performance of the Agreement once the condition ceases, with an option in the Affected Party to extend the period of this Agreement up to the length of time the condition endured.
48. The Parties may grant appropriate extensions to cover such periods of delays. Any extension shall be in writing and stipulate the amended dates of completion or performance as the case may be.

Agreement Supersedes

49. The First Nation and the Housing Authority acknowledge and agree this Agreement supersedes all prior communications and agreements as between them. There are no other agreed terms outside of this Agreement and attachments hereto.

This AGREEMENT made this day of , 2018

Name: _____

First Nation

Name: _____

Housing Authority

SCHEDULE A

<u>Disbursement Amount</u>	<u>Date of Disbursement</u>	<u>Particulars of Disbursement</u>
----------------------------	-----------------------------	------------------------------------

1.

2.

3.

4.

11.9 Sample BCR – Funding Agreement

SAMPLE BCR – FUNDING AGREEMENT

WHEREAS the First Nation maintains that, since time immemorial, it has been and is a sovereign nation and affirms its inherent right to self-government by designating the Chief and Council to act on its behalf;

AND WHEREAS, the First Nation has a need for quality, cost effective, safe, accessible and sanitary housing for families, individuals, Elders and disabled members;

AND WHEREAS the First Nation desires to regulate residency and housing on reserve and in particular the allocation, use and occupancy of band-owned and other houses on reserve;

AND WHEREAS on or about the th day of 2018 the First Nation established the Housing Authority (hereinafter AHousing Authority@) to, among other objectives, regulate residency and housing on reserve and in particular the allocation, use and occupancy of First Nation owned and other houses on reserve;

AND WHEREAS the First Nation receives, from time to time, funding and other monies for the operation of it=s government and the provision of programs and services to it=s members;

AND WHEREAS the Chief and Council of the First Nation recognize and agree that the Housing Authority as an independent organization requires funding to operate and provide its programs and services to the members of the First Nation;

AND WHEREAS the Housing Authority wishes to receive funding from the First Nation to operate and provide its programs and services to the members of the First Nation.

NOW, THEREFORE, BE IT RESOLVED by the First Nation:

1. That Chief and Council Approve funding for the Housing Authority.
2. That Chief and Council enter into the Funding Agreement (hereinafter the “Agreement”) with the Housing Authority which Agreement is attached to and forms part of this resolution
3. That funding to the Housing Authority be provided as set out in the Agreement and more particularly Schedule A of the Agreement

ADOPTED at First Nation, Reserve No. this day of , 20 .

Chief

Councilor

Councilor

Councilor