WHEREAS Section 110(1) of the Municipal Act 2001, S.O. 2001, c.25, provides that a municipality may enter into agreements for the provision of municipal capital facilities;

AND WHEREAS the proposed new facility owned by the Peterborough Lawn Bowling Club, at the address municipally known as 577 McDonnel Street, in the City of Peterborough, in the County of Peterborough, is deemed to be a municipal capital facility to be used as a community centre;

AND WHEREAS Section 110(6) of the Municipal Act, 2001, S.O. c.25, permits a municipality to exempt from all or part of the taxes levied for municipal and school purposes land or a portion of it on which a municipal capital facility is or will be located that is subject to an agreement under Section 110(1) of the Municipal Act, 2001, S.O. c.25,

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

That the Mayor and the Clerk be and they are hereby authorized to execute a municipal capital facilities agreement between The Corporation of the City of Peterborough and the Peterborough Lawn Bowling Club for the provision of a community centre, at 577 McDonnel Street, in the City of Peterborough, (to be known as the Peterborough Lawn Bowling Club Community Centre) and to affix the Seal of the Corporation thereto, in the form attached hereto as Schedule A.

By-law read a first, second and third time this 9th day of August, 2010

(Sgd.) D. Paul Ayotte, Mayor

(Sgd.) John Kennedy, Deputy City Clerk
FUNDING AGREEMENT

THIS FUNDING AGREEMENT made in triplicate this 9th day of August 2010.

B E T W E E N:

THE CORPORATION OF THE CITY OF PETERBOROUGH
(the “City”)

and

THE PETERBOROUGH LAWN BOWLING CLUB
(the “Club”)

WHEREAS the Club intends to construct and operate a municipal capital facility, being the Community Centre, at 577 McDonnel Street in the City of Peterborough (the “MCF”);

AND WHEREAS the City wishes to provide funding for the MCF on the terms and conditions set out herein;

AND WHEREAS the Club has agreed to utilize such City funding for the operation of the MCF on the terms and conditions set out herein;

AND WHEREAS The Municipal Act, 2001, and Ontario Regulation 46/94, as amended, permit the City to enter into an agreement for the provision of municipal capital facilities.

AND WHEREAS the Club covenants and represents that it shall commence construction of the MCF with all diligence and dispatch in 2010 and achieve substantial completion of the MCF no later than 31 December 2011;

NOW THEREFORE in consideration of the mutual covenants hereinafter set out and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree to the following terms, conditions and covenants:

DEFINITIONS

Funding – means the waiver of Development Charges to a maximum of $20,238.27 and the waiver of the applicable Parks Levy to a maximum of $14,720.00.

Community Centre – means a public facility, located at 577 McDonnel Street, where members of the community may gather for group activities, recreational programs and social support to persons who are members of the Club and/or members of any tenant of the Club;

MCF – means a municipal capital facility, as that term is defined in O. Reg. 46/94, enacted under the Municipal Act, 2001 located at 577 McDonnel Street in the City of Peterborough;

ARTICLE 1 – OVERVIEW OF AGREEMENT

1.1 In consideration of the Club agreeing to operate the MCF as a Community Centre at 577 McDonnel Street in the City of Peterborough, the City agrees to provide the Funding to the Club, in accordance with Article 2 and the Club agrees to accept the Funding subject to the terms and conditions as contained herein.

1.2 Except for the provision of the Funding described in this agreement, the Club acknowledges and agrees that the City has no other obligations or responsibilities in connection with the MCF or the administration or funding of Community Centre located within the MCF.
1.3 The Club shall disclose to the City without delay any fact or event that the Club is aware of from time to time which may compromise the Club’s ability to continue to operate the Community Centre at the MCF.

1.4 The LBC owns two abutting parcels of land with the municipal addresses 577 and 581 McDonnel Street. The land and any buildings with the municipal address 581 McDonnel Street will remain subject to all applicable municipal and school taxes and it is agreed that no part of 581 McDonnel Street is subject to this agreement.

ARTICLE 2 – FUNDING AND TAX RELIEF

2.1 The City shall provide Funding to the Club as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Waiver of Development Charges up to</td>
<td>$ 20,238.27</td>
</tr>
<tr>
<td>b. Waiver of Parks Levy up to</td>
<td>$ 14,720.00</td>
</tr>
<tr>
<td>Total Funding</td>
<td>$ 34,958.27</td>
</tr>
</tbody>
</table>

2.2 Upon request from the Club, the City shall provide verification of the calculation of the Development Charge and the Parks Levy.

2.3 Notwithstanding any contrary policies of the Club or the City, the parties acknowledge and agree that in the event the MCF is sold or if the Club ceases to operate a Community Centre at the MCF at any time from the date hereof until the 25th anniversary hereof, the City shall have the right to require the payment by the Club of an amount of money equal to:

a. $34,958.27 divided by 25 = $1,398.33; and

b. $1,398.33 times the number of years less than 25-years, that the Club did not operate a Community Centre, or such other facility as complies with the requirements of the Municipal Act, 2001, and Ontario Regulation 46/94, as amended.

For example, if the Club started operating the Community Centre in 2011 and stopped operating a facility which complies with the requirements of the Municipal Act, 2001, and Ontario Regulation 46/94, as amended, in 2030 (19 years), then the Club would pay to the City the sum of $8,389.98 being $1,398.33 multiplied by 6 years. For the sake of performing this calculation, any part years shall be rounded up or down to the nearest quarter-year and such calculation shall be performed taking into account the last quarter-year the Club operated a Community Centre at the MCF.

2.4 Provided that the Club is not in breach of any of its obligations under this agreement, the City shall enact an by-law pursuant to Section 110(60 of the Municipal Act, 2001, exempting the MCF from taxation for municipal and school purposes and from development charges and the parks levy in the amounts identified in Article 2.1 above. In the event the Club breaches, and does not within the reasonable period of time granted by the City, rectify such breach, then the City may repeal or amend the by-law which granted the MCF status to the Community Centre and thereafter assess and require the payment of municipal and school taxes.

ARTICLE 3 – FIRST RIGHT OF REFUSAL

3.1 In consideration of the City’s provision of the Funding, and the relief from municipal and school taxes, the Club hereby grants an option to the City, by way of first right of refusal, to acquire the Club’s premises located at 577 McDonnel
The Club and the City agree that, provided that the City is not in default of its obligations under this agreement, the Club shall first provide notice (the “Sale Notice”) to the City:

a. Offering to sell, transfer or otherwise convey the Property to the City;

b. Stipulating the sale price for which the Club is prepared to sell, transfer or otherwise convey the Property (the “Sale Price”); and

c. Setting out the terms and conditions (other than the Sale Price) on and subject to which the Club is prepared to sell, transfer or otherwise convey the Property (the “Sale Terms”).

The City shall have the first right to purchase and acquire the Property from the Club at the Sale Price on and subject to the Sale Terms in the event that it provides notice (a “Purchase Notice”) to the Club of its election to purchase the Property at the Sale Price on and subject to the Sale Terms within ninety (90) business days from receipt by the City of the Sale Notice. In the event that the City provides a Purchase Notice to the Club in the manner and within the time herein specified then, without further documentation, a binding agreement of purchase and sale of the Property at the Sale Price and on the Sale Terms shall be constituted between the Club, as Vendor, and the City, as Purchaser.

The parties acknowledge and agree that in the event such an agreement is entered into, the Funding shall represent a down payment by the City on the Sale Price and such amount shall be credited against the Sale Price.

If the City does not deliver a Purchase Notice to the Club in accordance with the preceding paragraphs, the Club shall have the right, within the period of 180 days following the expiry of the period in which the City had to deliver a Purchase Notice, to sell, transfer or otherwise convey the Property (the “Third Party Sale”) at a sale price which is greater than or equal to the Sale Price and on terms and conditions which in the aggregate are not more favourable than the Sale Terms.

In the event the City does not deliver a Purchase Notice in response to the Sale Notice of the Club such that an agreement of purchase and sale is not reached, the amount of the Funding shall be considered a grant to the Club and shall not be refundable in any way.

For greater certainty, the parties acknowledge and agree that an offer from the City to the Club to purchase the Property shall not trigger any rights of the City set out in this Article 3 unless such offer is accepted by the Club.

ARTICLE 4 – INSURANCE AND INDEMNITY

The Club agrees that it will indemnify and save harmless the City and its officers, employees, servants, agents, successors, and assigns from and against any and all claims whatsoever including all damages, liabilities, expenses, costs, including legal or other fees incurred in respect of any such claim, or any cause or proceeding brought thereon arising directly or indirectly from or in connection with this agreement, unless such claims are as a result of the gross negligence of the City or its officers, employees, servants, agents, successors, and assigns.
ARTICLE 5 – MISCELLANEOUS

5.1 The Club shall permit the City to use the Community Centre, free of charge, on four (4) occasions in each calendar year. The City shall use its best efforts to provide at least sixty (60) calendar days notice to the Club prior to each such use.

5.2 The Club shall ensure that in any and all communication activities, publications, advertising and press releases referring to the services there shall be included an appropriate acknowledgement, in terms satisfactory to the City, of the City’s Funding contribution.

5.3 This agreement and all schedules and attachments are subject to the Municipal Freedom of Information and Protection of Privacy Act (referred to as MFIPPA). Any information collected by the City pursuant to this agreement is subject to the rights and safeguards provided for in MFIPPA. This agreement is a public document and may, subject to MFIPPA, be provided to any person who makes a lawful inquiry.

5.4 This agreement may be amended by the mutual consent of the Parties. Any such amendment must occur through a written amendment agreement approved by the parties and executed on behalf of the City by its authorized signing officer(s).

5.5 This agreement is binding upon the Club and its successors and assigns and supersedes all previous agreements between the Parties. The Club shall not assign or in any way transfer this agreement or any of its rights, privileges, duties or obligations under this agreement without the prior written consent of the City which may be unreasonably withheld or delayed.

5.6 The Parties hereto declare that nothing in this agreement shall be construed as creating a legally binding partnership or agency relationship between them. The Club is not in any way authorized to make a promise, agreement or contract on behalf of the City.

5.7 All dollar amounts referred to in this agreement are in lawful money of Canada.

5.8 Each of the parties hereto shall from time to time at the other’s request and expense and without further consideration, execute and deliver such other instruments of transfer, conveyance, and assignment and take such further action as the other may require to more effectively complete any matter provided for herein.

5.9 This agreement constitutes the entire agreement between the parties and, except as herein stated and in the instruments and documents to be executed and delivered pursuant hereto, contains all of the representations and warranties of the respective parties. There are no oral representations or warranties among the parties of any kind. This agreement may not be amended or modified in any respect except by written instrument signed by both parties.

5.10 This agreement shall be interpreted in accordance with the laws of the Province of Ontario and shall be treated in all respects as an Ontario contract.

5.11 Any notice required or permitted to be given hereunder shall be in writing and shall be effectively given if (i) delivered personally, (ii) sent by prepaid courier service or mail, or (iii) sent prepaid by facsimile, telex, or other similar means of electronic communication and confirmed on the same or following day by prepaid mail, addressed, in the case of notice to the City, as follows:

City Clerk
The Corporation of the City of Peterborough
500 George Street North
Peterborough, ON K9H 3R9

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and in the case of notice to the Club, if addressed to it as follows:

The President
The Peterborough Lawn Bowling Club
P.O. Box Station Main
Peterborough, ON   K9J 7A9

and in all cases so delivered personally or by courier or so sent by means of electronic communication, so confirmed. Any notice so given is deemed conclusively to have been given and received when so personally delivered or sent by telex, facsimile, or other electronic communication or on the second day following the sending thereof by private courier or mail. Any party hereto or others mentioned above may change any particulars of its address for notice by notice to the others in the manner aforesaid.

5.12 This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors and assigns, including, but not limited to, any corporation resulting from an amalgamation.

IN WITNESS WHEREOF the parties have hereto set their hands and seals as of the date above written.

SIGNED, SEALED AND DELIVERED
in the presence of:

THE CORPORATION OF THE
CITY OF PETERBOROUGH

D. Paul Ayotte, Mayor

John Kennedy, Deputy Clerk

THE PETERBOROUGH LAWN
BOWLING CLUB

Robert Guppy, President
I/We have authority to bind the Club

Beverly O’Toole, Treasurer
I/We have authority to bind the Club