EXECUTIVE SUMMARY:
In September 2008, Frontenac Community Mental Health Services (FCMHS) received funding approval for the construction of twenty-seven (27) units under the Canada-Ontario Affordable Housing Program (AHP). The City of Kingston provided additional funding from the Affordable Housing Construction Reserve to offset municipal development costs. Prior to the start of construction of the new building, FCMHS was required to build a road, which will be deeded back to the City. On October 7, 2008 Council approved a grant to FCMHS to construct the road through the Social Services Stabilization Reserve and pursuant to the municipal capital facilities provision of the Municipal Act.

In August 2009, FCMHS received an additional allocation of AHP funding under the new AHP-Extension 2009 program, for sixteen (16) units to be constructed in conjunction with the twenty-seven (27) units. The City of Kingston also provided funding from the Affordable Housing Construction Reserve to offset municipal development costs.

FCMHS has now arranged for a mortgage and the Lender requires the Province and the City to postpone their securities so their mortgage is registered in first position. In all previous AHP projects, the Province and City have complied with this requirement. The postponement in this case involves the agreement for 27 units registered in 2008 as well as the agreement for 16 additional units registered in 2009 which are registered in first and second position.

This means that the normal condition for the Lender to have first position will move the city registrations to second and third position. The authorization of this request exceeds current delegated authority, hence the recommendation seeking Council approval to authorize the Mayor and Clerk to sign the required postponement agreements. Although it is not usual for the City to have securities registered in third position, legal services agree that it is acceptable in these circumstances.

RECOMMENDATION:
THAT Council authorize the Mayor and Clerk to execute the required documents to postpone the securities registered on title of the property at 31 Lyons Street owned by Frontenac Community Mental Health Services in favour of a new first mortgage.

AND FURTHER THAT Council approves the postponement of securities currently registered in first and second position to second and third position in favour of the new first mortgage and in a form satisfactory to the Legal Services Division.
AUTHORIZING SIGNATURES:

<table>
<thead>
<tr>
<th>ORIGINAL SIGNED BY COMMISSIONER</th>
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<tbody>
<tr>
<td>Terry Willing, Acting Commissioner, Community Development Services</td>
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<tr>
<th>ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER</th>
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<tr>
<td>Gerard Hunt, Chief Administrative Officer</td>
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CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

<table>
<thead>
<tr>
<th>Commissioner</th>
<th>Department</th>
<th>N/R</th>
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<tbody>
<tr>
<td>Cynthia Beach</td>
<td>Sustainability &amp; Growth</td>
<td>N/R</td>
</tr>
<tr>
<td>Denis Leger</td>
<td>Corporate Services</td>
<td>N/R</td>
</tr>
<tr>
<td>Jim Keech</td>
<td>Utilities Kingston</td>
<td>N/R</td>
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(N/R indicates consultation not required)
OPTIONS/DISCUSSION:

On September 25, 2008 Frontenac Community Mental Health Services (FCMHS) was approved for funding under the Canada-Ontario Affordable Housing Program (AHP) for the construction of twenty-seven (27) units. As with previous AHP proponents, they were also approved for municipal funding from the Affordable Housing Construction Reserve to offset development charges, impost fees and building permits.

FCMHS purchased a piece of property on Lyons Street with the intention of building up to 200 units in phases. As the property was land locked and undeveloped, they were required to build a road, which will be deeded back to the City, and run all services necessary (water, sewer, utilities) for the full development of the property. The cost of the road and services exceeded the financial capability of FCMHS especially given the size of this first phase of construction. After discussions with legal and finance, it was determined that the City could provide financial assistance in regards to construction of this road and costs associated with the infrastructure through the Social Services Stabilization Reserve and pursuant to the municipal capital facilities provision of the Municipal Act. Council approved the financial assistance for the road construction on October 7, 2008.

On December 22, 2008, FCMHS signed a Provincial Contribution Agreement and a Municipal Contribution Agreement. The security documents which included the provincial and municipal AHP funding and the road grant were registered on title in first position with the Province of Ontario and the Corporation of the City of Kingston as parties.

In keeping with all other AHP projects, FCMHS was required to sign a Provincial Contribution Agreement with the Ministry of Municipal Affairs and Housing (the Ministry) and a Municipal Contribution Agreement with the Corporation of the City of Kingston which included the terms and conditions related to the road grant. The total amount of the AHP funding and municipal grant was registered on title in first position with the Province and the City as parties to the securities.

On August 10, 2009 FCMHS was approved for funding for sixteen (16) additional units under the new AHP – Extension 2009. They were also approved for municipal funding from the Affordable Housing Construction Reserve to offset development fees, impost charges, and building permits. The new AHP program required that the City of Kingston sign a new Administration Agreement with the Ministry. Under this new agreement, funds were transferred from the Ministry to the City of Kingston for distribution to the AHP proponents. The Ministry, also, confirmed that the Province was not to be a party to the contribution agreement or registered security documents.

FCMHS signed one Contribution Agreement with the Corporation of the City of Kingston. The total amount of the AHP and municipal funding was registered on title in second position with the City as the only party to the securities.

FCMHS has now arranged financing for a new first mortgage and the Lender requires the City and the Province to postpone their securities to the new first mortgage. All of the previous AHP proponents have had a similar situation and the City and Province have complied.

At the regular meeting of Council on February 6, 2007, it was resolved that Council authorize the Mayor and Clerk, following the review and recommendation of staff, to execute contracts as required under the Canada-Ontario Affordable Housing Program. This has been the process in the past; however, it cannot be done in this case.

The grant to construct the road was not provided under the AHP. It was provided pursuant to the municipal capital facilities provision of the Municipal Act. Therefore, the Mayor and Clerk are not authorized to execute postponement agreements which include the road grant. City staff, including the City solicitor, recommends that Council authorize the Mayor and Clerk to execute the necessary postponement agreements so FCMHS can secure the first mortgage required to meet their financial obligations.
FCMHS is the first AHP proponent in the City of Kingston service area to receive more than one AHP funding allocation and require the registration of two separate sets of security documents on the same property. The result is that when the first mortgage is registered, the securities held by the Province and City will move to second and the securities held by the City only will move to third. Housing Programs staff have consulted with legal services and it was agreed that, although this is unusual, it does not impose undue risk for the City of Kingston. Therefore, Housing Programs staff and legal services endorse the signing of the postponement agreements.

The Mayor and Clerk have been authorized by City Council to execute such documents as required under the Canada-Ontario Affordable Housing Program. However, the grant provided for the road construction does not fall under the AHP and therefore is not part of the delegated approval and signing authority of the Mayor and Clerk.

EXISTING POLICY/BY LAW:
Municipal Capital Facilities Provision of the Municipal Act
The Kingston Model for Action – Affordable Housing Supply

NOTICE PROVISIONS:
No notice requirements

ACCESSIBILITY CONSIDERATIONS:
This report is available in alternative formats upon request, including translation to French.

FINANCIAL CONSIDERATIONS:
The proposed postponement does not impose undue risk for the City of Kingston and the matter has no broader financial impact.

CONTACTS:
Jim de Hoop, Director, Community and Family Services (x4957)
Mary McIntyre, Housing Programs Administrator, (x4948)

OTHER CITY OF KINGSTON STAFF CONSULTED:
Cheryl Hitchen, Manager, Applicant Services and Community Programs Administration (x4806)
Alan McLeod, Senior Legal Counsel, Legal Services (x1237)
Adele Lafrance, Manager, Finance and General Administration (x4801)

EXHIBITS ATTACHED: N/A