

Bill No. 335
2024

By-law No. A.-____

A by-law to repeal C.P.-1584-80, as amended, being “A by-law to approve and authorize the use of the Office-to-Residential Conversion Loan Agreement template between The Corporation of the City of London (the “City”) and a Registered Owner (the “Borrower”) and to approve an Office-to Residential Conversion Loan Agreement template to encourage the conversion of vacant office space into residential units, and to delegate the authority to enter into such Agreements to the Deputy City Manager, Planning and Economic Development or their written designate”

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law

AND WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorize a municipality to pass by-laws necessary or desirable for municipal purposes and, in particular, paragraph 3 of subsection 10(2) authorizes by-laws respecting the financial management of the municipality

AND WHEREAS section 23.1 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes a municipality to delegate its authority

AND WHEREAS subsection 23.2(2) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes a municipality to delegate quasi-judicial powers under the *Municipal Act, 2001* to an individual who is an officer, employee, or agent of the municipality

AND WHEREAS by By-law C.P. 1356-234 Municipal Council of The Corporation of the City of London designated the Downtown Community Improvement Project Area a community improvement project area;

AND WHEREAS by By-law C.P. 1357-249 Municipal Council of The Corporation of the City of London adopted the Downtown Community Improvement Plan;

AND WHEREAS Municipal Council of The Corporation of the City of London established financial incentives for the Downtown Community Improvement Project Area by By-law C.P. 1467-175;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. By-law. C.P.-1584-80, as amended, is hereby repealed, effective the date of the passing of this by-law.
2. The Office-to-Residential Conversion Loan Agreement template between The Corporation of the City of London (the “City”) and a Registered Owner (the “Borrower”) attached as Schedule “I” to this bylaw (“Agreement”) is hereby authorized and approved.
3. The Deputy City Manager, Planning and Economic Development, or their written designate, is hereby delegated the authority to execute the Agreement and approve amendments to the Agreement, provided the form of agreement conforms with the Office-to-Residential Conversion Grant Program and has been approved by the Deputy City Manager, Legal Services, or their written designate.

4. The Deputy City Manager, Planning and Economic Development, or their written designate, is hereby delegated the authority to approve and execute amending agreements to the Agreement, provided the form of agreement conforms with the Office-to-Residential Conversion Grant Program and has been approved by the Deputy City Manager, Legal Services, or their written designate.

5. This by-law shall come into effect on the day it is passed subject to the provisions of Part VI.1 of the *Municipal Act*, 2001.

PASSED in Open Council on September 24, 2024, subject to the provisions of PART VI.1 of the *Municipal Act*, 2001.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – September 24, 2024
Second Reading – September 24, 2024
Third Reading – September 24, 2024

“Schedule 1”

OFFICE-TO-RESIDENTIAL CONVERSION LOAN AGREEMENT

This Agreement made in triplicate this ____ day of _____, 20__.

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON,

hereinafter called "the City";

- and –

<BORROWER>

hereinafter called "the Borrower";

WHEREAS the Borrower represents that they are the registered owner of the property, known municipally as _____, located in the Downtown Community Improvement Project Area in the City of London, in the County of Middlesex and more particularly described in **Schedule "A"** attached hereto (the "Land");

AND WHEREAS section 28(7) of the Planning Act, R.S.O. 1990, c. P.13 authorizes a municipality to make grants or loans in conformity with a community improvement plan to registered owners within a community improvement project area;

AND WHEREAS the City has established the Office-to-Residential Conversion Grant Program within the Downtown Community Improvement Plan to encourage the conversion of vacant office space into residential units by providing a forgivable loan to qualified applicants;

AND WHEREAS the Borrower has applied to the Office-to-Residential Conversion Grant Program, and the City has provisionally accepted the application pursuant to the City's Commitment Letter dated _____, in **Schedule "B"** attached hereto;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the foregoing and the mutual covenants herein contained, and for other good and valuable consideration, the parties hereto covenant and agree each with the other to comply with, keep, perform and be bound by each and every term, condition and covenant herein set out to the extent that the same are expressed to be respectively binding upon them, and the same shall enure to the benefit of and shall be binding upon their respective heirs, executors, administrators, successors and assigns.

1. In consideration of the Loan, the Borrower hereby agrees to redevelop existing vacant office space located on the Land to *[insert number]* residential units (the "Units") as follows:

Type of Unit	Number of Unit Type	Loan Amount
(e.g. 1 bedroom)		

2. **Loan Amount:** Subject to the terms of this Agreement, the City shall loan to the Borrower, the total amount of _____, (the "Loan") by way of a single lump-sum payment payable within sixty (60) days of the parties' execution of this Agreement.

3. **Conditions:** The provision of the Loan is subject to the following conditions precedent:

- (a) All applicable property taxes must be fully paid to date for the Land;
- (b) A certificate of lien is registered against title to the Land by the City pursuant to section 7 below;
- (c) A building permit being issued for the construction of the Units;
- (d) The City has approved the Borrower's capital and operating budget for the project containing the Units; and
- (e) there are no outstanding orders or bylaw contraventions related to the property that affect the issuing of the building permit.

4. **Interest:** Interest shall accrue on the principal amount of the Loan at a rate of eight percent (8%) per annum, compounded and calculated every 30 days, commencing from the advance date of the Loan. The accrued interest shall become payable in accordance with the default provisions in this Agreement.

5. Loan Forgiveness: The Loan, including all accrued interest, shall be fully forgiven following the date on which the final building permit inspection has been passed, confirming the work to create the residential units has concluded and meets the requirements of the Ontario Building Code, all to the satisfaction of the City and provided no default has occurred under this Agreement (the "Completion Date").

6. Commencement of Construction: The Borrower shall commence construction of the Units within one (1) year of the initial Loan advance and proceed with development regularly and diligently thereafter until completion. The Borrower shall fully construct the Units and achieve the Completion Date on or before the fourth anniversary of the initial Loan advance date, failing which, the Borrower shall be deemed to be in default under this Agreement. Notwithstanding, the City may agree in writing to extend the deadline for the Completion Date one or more times, at its sole discretion, provided: 1) the cumulative extension period does not exceed two (2) years; and 2) at the time of extension request, the Borrower has proceeded diligently with the construction of the Units to the satisfaction of the City.

7. Lien Registered on Land: The Borrower acknowledges and agrees that the City shall register a certificate of lien upon the Land in the amount of the Loan, in accordance with Subsections 28(7), 28(9) and 32(3) of the *Planning Act*, R.S.O. 1990, c. P. 13. The lien shall be discharged following the Completion Date or payout of the Loan, subject to the default provisions of this Agreement.

8. Agreement Registered on Land: The Borrower acknowledges and agrees that the City may, at its option, register this Agreement upon the Land pursuant to Subsection 28 (11) of the *Planning Act*, R.S.O. 1990, c. P. 13. This Agreement shall be discharged from title to the Lands by the City any time after the Completion Date or payout of the Loan, subject to the default provisions of this Agreement.

9. Insurance: The Borrower shall maintain the following insurance until the Completion Date:

(a) fire and extended perils insurance under a standard extended form of fire insurance policy in such amounts and on such terms and conditions as would be carried by a prudent owner of a similar building, having regard to the size, age and location of the building; and

(b) general liability and property damage insurance, including personal liability, contractual liability, tenants' legal liability, non-owned automobile liability and owners' and contractors' protective insurance coverage with respect to the Land written on a comprehensive basis with inclusive limits of at least five million dollars (\$5,000,000) for each occurrence and such insurance shall add the City as an additional insured.

10. Indemnity: The Borrower shall indemnify and save the City, its officers, directors, employees, agents harmless from and against all claims, actions, losses, expenses, costs or damages of every nature and kind that the City may suffer, caused or alleged to be caused by any willful or negligent act, omission or delay on the part of the Borrower or its officers, directors, employees, contractors or agents, in connection with anything purported to be or required to be done by the Borrower in connection with this Agreement, including the Loan and Units.

11. Representations and Warranties of the Borrower: The Borrower represents and warrants that they have never defaulted on a City loan or grant program, including by way of individual affiliation with any company or group of people authorized to act as a single entity such as a corporation; they shall remain in good standing under the terms of any construction financing secured against the Lands during the term of this Agreement; that property taxes are paid in full and there are no City of London Orders or by-law infractions currently outstanding in relation to the Land. If property taxes are owing on the Lands for more than one full year or the Borrower is declared in default under any other financing arrangement secured against the Lands, the City will have the option, without notice and at its own discretion, to declare the Borrower in default under this Agreement.

12. Assignment and Transfer: In the event the Borrower transfers any interest in the Land, in whole or in part, to any person other than the Borrower, the outstanding balance of the Loan, including any interest or penalties accrued, shall become immediately due and payable. Notwithstanding, the City may, at its sole discretion, consent to the assignment of the Loan to a transferee prior to a transfer being completed. An assignment of the Loan shall require as a condition, that the transferee enter into a new Loan Agreement with the City in relation to the Loan.

13. Termination: The parties acknowledge and agree that this Agreement and all obligations of the parties hereunder, shall be terminated upon the passing of the Completion Date or the full

repayment of the Loan, including any applicable interest. This Agreement may also be terminated earlier upon the written agreement of the parties to same.

14. Subsequent Owners Bound: Subject to the provisions of the *Registry Act* and the *Land Titles Act*, the covenants, agreements, conditions and understandings herein contained on the part of the Borrower shall be conditions running with the Land and shall be binding upon it, its heirs, executors, administrators, successors and assigns, as the case may be, as subsequent owners and occupiers of the Land from time to time (and "Borrower", wherever used in this Agreement, is intended and shall be construed to include such subsequent owners and occupiers) in accordance with Subsection 28 (11) of the *Planning Act*, R.S.O. 1990, c. P. 13.

15. Default: Time shall be of the essence in this Agreement. Upon breach by the Borrower of any covenant, term, condition or requirement of this Agreement, or upon the Borrower becoming insolvent or making an assignment for the benefit of creditors, the Borrower shall be in default under this Agreement. Notice of such default shall be given in accordance with this Agreement and if the Borrower has not remedied such default within such time, as provided in the notice, the City may direct that the balance owing on the Loan together with interest and penalties be immediately due and payable.

16. Enforcing Performance of Requirements: In addition to any remedy authorized or permitted by this Agreement or by law, the City may, in the event of a default by the Borrower under this Agreement, do such matter or thing at the Borrowers' expense to correct the default, and the City may recover the expense incurred in doing it by action, from any security posted by the Borrower, or by recovery in like manner as municipal taxes. No proceeding by the City under this clause and no waiver under any provision of this Agreement shall prejudice the rights of the City in respect of any subsequent default by the Borrower under this Agreement. The rights of the City may be enforced by any remedy authorized or permitted by this Agreement or by law, and no such remedy shall be exclusive of or dependent on any other remedy.

17. Notice: Any notice required or permitted to be given pursuant to the terms of this Agreement shall be given in writing, sent by prepaid registered post, addressed in the case of notice given by the City to the Borrower at the municipal address of the Land, and in the case of notice given by the Borrower to the City addressed to: The City Clerk, P.O. 5035, London, Ontario N6A 4L9. Notice shall conclusively be deemed to have been given on the day that the same is posted.

18. Separate Covenants: All of the provisions of this Agreement are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate clause hereof. Should any provision of this Agreement be adjudged unlawful or not enforceable, it shall be considered separate and severable from the Agreement and its remaining provisions as though the unlawful or unenforceable provision had never been included.

19. Entire Agreement: This Agreement (including any Schedules, Exhibits and Attachments) shall constitute the entire Agreement of the parties with respect to, and supersedes all prior written and oral agreements, understandings and negotiation with respect to the subject matter hereof.

20. Number and Gender: This Agreement shall be read with all changes to gender required by the context.

IN WITNESS WHEREOF the City has executed this Agreement by its authorized officers and the Borrower has hereunto set its hand and seal, or hereunto affixed its corporate seal attested by the hands of its duly authorized officers.

THE CORPORATION OF THE CITY OF LONDON

<BORROWER>

Name:
Title:

SCHEDULE "A"
DESCRIPTION OF LAND

Property Address: _____

Legal Description: *[Lot/Part Lot/33R Plan/ etc.]*

SCHEDULE "B"
LOAN COMMITMENT LETTER