

Report to

To: Chair and Members
Community and Protective Services Committee

From: Scott Mathers
Deputy City Manager, Planning and Economic Development

Subject: SS-2023-089 - Single Source Procurement to deliver the 345
Sylvan Street Rapid Housing Initiative (RHI) Round 3 Project

Date: March 21, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Planning and Economic Development, the following actions **BE TAKEN**:

- a) A single source procurement in accordance with s. 14.4(g) of the Procurement of Goods and Services Policy and associated design-build contract **BE APPROVED** to EllisDon Corporation (“EllisDon”) for the design and construction of a new multi-residential affordable rental housing development at 345 Sylvan Street at the fixed price of \$17,236,735.00, excluding HST;
- b) The proposed by-law, attached as Appendix “A”, **BE INTRODUCED** at the Municipal Council Meeting on April 4, 2023, to:
 - i. Approve the CCDC-14 Design-Build Stipulated Price Contract between EllisDon and The Corporation of the City of London for a multi-residential affordable rental housing development at 345 Sylvan Street (“Agreement”);
 - ii. Authorize the Mayor and City Clerk to execute the Agreement.
- c) **APPROVE** the Sources of Financing Report, attached as Appendix “B”;
- d) **AUTHORIZE** Civic Administration to undertake all administrative acts necessary in connection with this purchase;
- e) **AUTHORIZE** Civic Administration to undertake all administrative acts necessary to prepare an Operations Plan and Budget and to align a future building operator to manage the future affordable rental housing development at 345 Sylvan Street;
- f) **DELEGATE AUTHORITY** to the Deputy City Manager, Planning and Economic Development to approve amendments or amending agreements associated with the Agreement and future building operator.

Executive Summary

On January 10, 2023, Council approved the Corporation entering into an agreement with Canada Mortgage Housing Corporation (CMHC) for the Rapid Housing Initiative (RHI) Round 3 Cities Stream funding to construct an affordable rental housing development on City-owned lands located at 345 Sylvan Street (the “Site”). The maximum construction timeline to complete projects approved through the RHI Round 3 program is 18 months.

In accordance with s. 14.4(g) of the Procurement of Goods and Services Policy, Civic Administration seeks approval of a single source procurement to enter into a design-build contract with EllisDon to develop the Site to provide for a 3-storey, 42-unit affordable rental housing apartment (the “Project”). The schedule submitted by EllisDon to construct the Project is 16 months and anticipates occupancy to commence in Q3-2024. This approval will ensure that all project expenditures and transactions flow through the City’s financial systems.

In alignment with the proposed by-law attached as Appendix A, Civic Administration seeks approval for the CCDC-14 Design-Build Stipulated Price Contract with EllisDon,

authority for the Mayor and Clerk to execute the Agreement, and delegation to staff to undertake all administrative acts necessary in connection with the purchase.

Linkage to the Corporate Strategic Plan

Council and staff continue to recognize the importance of actions to support housing, as reflected in the 2019-2023 - Strategic Plan for the City of London. Specifically, the efforts described in this report address the following strategic areas of focus:

Strengthening our Community

The following strategies are intended to “increase affordable housing options”:

- Increase supportive and specialized housing options for households experiencing chronic homelessness.
- Strengthen the support for individuals and families in need of affordable housing.
- Utilize innovative regulations and investment to facilitate affordable housing development.

The following strategies are intended to achieve the result of reducing the number of individuals and families experiencing chronic homelessness or at risk:

- Create more purpose-built, sustainable, affordable housing stock in London.
- Implement coordinated access to mental health and addictions services and supports.

Safe City for Women and Girls

The following strategies are intended to decrease violence toward women through housing:

- Work with landlords and developers to end discrimination and bias against abused, sex trafficked and/or sexually assaulted women and girls attempting to access affordable housing; and
- Work together with City of London Housing Services, Housing Development Corporation, London Middlesex Community Housing to build more accessible and safer housing options for women and girls.

Analysis

1.0 Discussion and Considerations

1.1 Previous Reports Related to this Matter

- [Rapid Housing Initiative - Round 3 Agreement](#) (CPSC: January 10, 2023)
- [Authorization and Delegations to Advance Urgent Housing Projects](#) (CPSC: November 2, 2021)
- [345 Sylvan Street and Stabilization Space Update](#) (CPSC: December 15, 2020)
- [Canada Mortgage and Housing Corporation \(CMHC\) Rapid Housing Initiative \(RHI\)](#) (CPSC Item 4.4: November 3, 2020)
- [Canada Mortgage and Housing Corporation \(CMHC\) Seed Funding Contribution Agreement and CMHC Loan Agreement](#) (CPSC Item 2.7: November 3, 2020)
- [Property Acquisition – 345 Sylvan Street – Core Stabilization Space](#) (Council Item 7, Bill No. 456: November 26, 2019)

1.2 Background

Acquisition and Assembly of 345 Sylvan Street

In November 2019, Council approved the City’s acquisition of the Site for the purpose of creating a stabilization space. In December 2020, Council redirected the Managing Director, Housing, Social Services and Dearnness Home to, in partnership with the Housing Development Corporation, London (HDC), prepare the Site for a range of uses that conform to the Official Plan, including demolition of the existing structure. Through its delegated authority, HDC oversaw the clearing and assembly of the Site to provide for an affordable rental housing project in response to local urgent housing needs.

Between January 2021 and April 2022, HDC, on behalf of the City, procured and administered all activities required to complete the demolition, pre-development studies/reports and designs, and land use permissions (Official Plan and Zoning By-law amendments and Site Plan Approval) required to bring the lands to “shovel-ready”; it being noted that an appeal to the Council-approved Official Plan and Zoning By-law amendments was filed with the Ontario Land Tribunal in April 2021 and the decision of Council was upheld and cleared by the Tribunal in December 2021.

Since April 2022, under the leadership of the City’s new Municipal Housing Development (MHD) service area, EllisDon continued to prepare the Site for development. In April 2023, the drawings and specifications were compiled as a formal application and submitted to the City as the Approval Authority for Building Permit review and approvals.

The Project

The Project provides for 42 units of new affordable housing in London. Using the same combination of prefabricated, panelized modular systems used to construct the City’s RHI-1 and RHI-2 projects, EllisDon prepared the final design and Building Permit drawings, as the design-build services provider procured by HDC to deliver RHI projects.

The 3-storey brick building design includes two elevators providing barrier-free access to all floor levels, 3 main floor offices for building management and/or tenant support services providers, a multipurpose amenity room with a full kitchen for residents, guests, programs and support services, an accessible common-use washroom and laundry room situated directly off the main floor lobby space, and 33 indoor bicycle parking spaces.

The Project also provides for exterior amenities, including a pavilion, leisure seating areas, active and passive recreation areas, open greenspaces, and surface parking for 21 vehicles (including 4 barrier-free parking spaces).

The unit types delivered through the Project include 2 bachelor units, 36 one-bedroom units, and 4 two-bedroom units, and provide for a range of barrier-free accessible design considerations, including:

- Whereas 15% is required, 100% of the 42 units have been designed to comply with the barrier-free design Occupancy Requirements of OBC s. 3.8.2.1.(5) to (8), including wider interior hallways and doors, latch-side clearance, turning circle clearance and structural backing to support future grab bars in washrooms;
- 100% of the 42 units also incorporate enhanced accessibility features including, lever-style handles, accessible height controls and receptacles, front control appliances, bottom access freezers, and roll-in showers for all bachelor and one-bedroom units and 2 of the 4 two-bedroom units; and
- 3 of the 42 units provide for accessible-height counters, roll-under knee clearance at sinks, and grab bars installed in the washrooms.

Subject to the required approvals, the Project is anticipated to start by the end of April 2023 and is anticipated for completion within 16 months. Occupancy is anticipated to commence by September 2024.

1.3 HDC Relationship with the Corporation of the City of London

HDC is a municipal services corporation with share capital incorporated pursuant to the *Municipal Act, 2001* and the *Business Corporation Act*, R.S.O. 1990, c.B.16, with the City as the sole shareholder and a Council-appointed Board of Directors.

HDC was created for the purpose of “*stimulating the development and sustainability of affordable housing throughout the London and Middlesex communities*” and operated as the City’s agent to assist in the administration of the City’s affordable housing mandate.

In January 2021, Council approved the integration of the City’s affordable housing portfolio into its corporate structure with an implementation timeline of Q2-2021. Since then, the MHD service area was established to advance the work began by HDC, and the

Housing Enterprise Action Team (HEAT) was created as an enterprise-wide team comprised of lead staff from various City service areas with authorities and accountabilities to deliver strategic initiatives related to London's housing continuum and the City's affordable housing mandate.

1.4 HDC Procurement Policy and Processes to Advance RHI Projects

The HDC Procurement Policy aligns with the City's Procurement of Goods and Services Policy where it relates to achieving best value when purchasing traditional goods and services. However, the HDC Procurement Policy is unique in areas related to procuring "partnership relationships" and is expanded to include processes specific to the pre-qualification of "Rostered Partners" and "Business Alliance/Joint Venture" selections.

In November 2020, HDC released a closed Request for Pre-Qualification (RFPQual-11/2020-01) to establish a pre-qualification roster of design-build service providers to deliver multi-residential modular affordable housing projects in alignment with the RHI program requirements. RFPQual#11/2020-01 was conducted in accordance with the HDC Procurement Policy and was assisted by the Housing Services Corporation (HSC), a 3rd party consultant with expertise in delivering affordable housing.

The RFPQual invited five (5) HDC Rostered Partners that demonstrated experience in undertaking and delivering multi-residential modular design-build projects, in an Ontario context, to participate in the process. The RFPQual process was intended to prequalify multiple proponents to proceed to second stage Request for Proposal procurement processes anticipated to advance future RHI projects; however, EllisDon was the only Rostered Partner to meet the minimum requirements and achieve the minimum scoring threshold of the RFPQual.

Although the result reflected an irregular outcome, it was achieved through a defined competitive and fair process that was intended to advance only those capable of meeting the strict parameters and expedited project timelines related to the RHI program. As a result, in accordance with the HDC Procurement Policy, the HDC Board approved EllisDon as the Single Source List service provider and direct negotiations with EllisDon to deliver design-build services for each of the three HDC/City RHI priority development sites at 122 Baseline, 403 Thompson and 345 Sylvan. The award is/was contingent on:

- All required and related project, site, and program funding approvals.
- The establishment of contracts to advance development on the identified project site(s) as reviewed by the City Solicitor and Risk Management; and
- The associated approval of the City RHI leads, as applicable.

HSC confirmed similar considerations within their public sector procurement practices.

1.5 Rapid Housing Initiative

The RHI program is delivered by CMHC under the National Housing Strategy. It provides grant funding to advance and facilitate the rapid construction of shovel-ready development sites to create new affordable housing units, and the acquisition of existing buildings for rehabilitation or conversion to permanent affordable housing.

In preparation for the anticipated release of the first round of RHI funding, and through various Council and HDC Board approvals, three development sites were identified as priority lands to be aligned to meet RHI program criteria and advanced to a "shovel-ready" development state: 122 Base Line Road West (HDC-owned lands); 403 Thompson Road (HDC-owned lands); and, 345 Sylvan Street (City-owned lands). To-date, the City has been extremely successful in delivering RHI projects on-time and on-budget, including:

- RHI Round 1 - 122 Base Line Road West completed in February 2022 (61 Units)
- RHI Round 2 - 403 Thompson Road completed in January 2023 (44 Units)

RHI Round 3 Cities Stream Funding Agreement

In January 2023, Council approved the CMHC RHI Round 3 Cities Stream Agreement providing funding to deliver a third municipal RHI project. The RHI Round 3 funding was aligned to advance the 345 Sylvan Street Project beyond “shovel-ready” through to construction completion and occupancy (CPSC: Jan. 10, 2023).

RHI Round 3 projects require that 25% of the new units be aligned to women, women and their children, and/or women fleeing domestic violence.

2.0 Key Issues and Considerations

2.1 Single Source Procurement

The Procurement of Goods and Services Policy describes procurement may be conducted using a Single Source process if the goods and/or services are available from more than one source, but there are valid and sufficient reasons for selecting one supplier in particular.

Section 14.4(g) of the Procurement of Goods and Services Policy states that single source procurement may be conducted using a Single Source process where *“It is advantageous to the City to acquire the goods and services from a supplier pursuant to the procurement process conducted by another public body.”*

As outlined in section 1.4 of this report, HDC conducted a Request for Pre-Qualification pursuant to the HDC Procurement Policy to establish a list of rostered service providers for multi-residential modular design-build projects. Although the Request for Pre-Qualification resulted in an irregular result, the HDC Board approved EllisDon as the Single Source List service provider in accordance with its Procurement Policy. HDC then engaged in negotiations with EllisDon to deliver design-build services for three RHI project sites, including 345 Sylvan Street.

It is recommended that the Corporation acquire the design-build services of EllisDon to construct the Project on the Site through a single source procurement pursuant to the procurement process conducted by HDC, to which the Corporation had delegated authority over certain affordable housing matters at the time procurement was conducted.

2.2 RHI-3 Funding Requirements

In accordance with the terms of conditions of s. 4: Return of Contribution of the CMHC RHI Round 3 funding agreement, CMHC may reduce or cancel the funding if the deliverables have not been fully and timely delivered as expected or where the City has not started the project within 2 months of the start date outlined in Schedule B of the agreement.

Should the City not proceed with the single source procurement associated with the design-build plans and schedule prepared by EllisDon, the project would no longer be shovel-ready and would not be started or completed within the required timelines of the existing Council-approved RHI Round 3 funding agreement.

2.3 Approval of a CCDC-14 Design-Build Stipulated Price Contract

Similar to the construction contracts executed between HDC and EllisDon to deliver the RHI-1 and RHI-2 projects, a CCDC-14 Design-Build Stipulated Price Contract is required between The Corporation of the City of London and EllisDon at the fixed price of \$17,236,735.00 excluding HST, to deliver the RHI-3 project at 345 Sylvan Street. Civic Administration seeks approval of the Agreement, in alignment with the by-law attached as Appendix A. Given the current market volatility, the fixed price submitted by EllisDon on February 6, 2023, remains valid for 60 days.

2.4 Operations Plan

Civic Administration is exploring options to align an Operating Partner to manage the

completed Project. Once confirmed, an Operations Plan and Budget will be prepared to ensure the coordination of property management, building services and tenant support services, as required.

2.5 Delegation of Authority

A delegation of authority to the Deputy City Manager of Planning and Economic Development (DCM) ensures that time-sensitive matters can be actioned quickly. The DCM directs staff from MHD to provide services related to land use applications, project plans and program indemnifications. MHD also chairs the Housing Enterprise Action Team that includes staff from across the organization to help guide the timely delivery of new affordable housing and ensure alignment with Council's policies and procedures. Regardless of any delegations, any significant deviation from the associated agreements and the EllisDon Contract would require direction from Council.

3.0 Financial Issues and Considerations

In most cases where affordable housing is constructed, including the City's RHI-1 and RHI-2 projects, multiple funding sources are required to establish a viable proforma.

The RHI-3 Project capital budget outlined below and provided for in the Source of Financing attached as Appendix B, includes a significant portion of its funding sources coming from the City's Roadmap to 3,000 Units Action Plan (approved by Council in December 2021) and from CMHC through RHI-3 (approved by Council in January 2023).

Capital Budget for the Project

The Capital Budget for 345 Sylvan Street is subject to change. Identified costs exclude Harmonized Sales Tax (HST).

Project Costs	Amount
Land Acquisition, Land Transfer and Legal Costs	\$1,172,202
Pre-Development - Demolition, Studies, and Carrying Costs	\$733,538
Design-Build Construction Contract	\$17,236,735
Development Fees	\$773,856
Common-Area Furniture Allowance	\$50,000
Net HST	\$310,333
Contingency	\$172,367
Total Project Costs	\$20,449,031

Funding Sources	Amount
Acquisition funding through City's Housing Stability Services	\$1,172,202
Drawdown from Social Housing Reserve Fund	\$15,253
SEED Funding - CMHC	\$150,000
HDC Reserve Fund	\$2,348,000
Ontario Priorities Housing Initiative (OPHI) Year 4 Funding	\$2,504,776
Rapid Housing Initiative (RHI) Round 3 Funding - CMHC	\$8,854,705
Reaching Home Funding	\$2,500,000
Roadmap to 3,000 Affordable Housing Units (Roadmap) Funding	\$2,904,095
Total Funding Sources	\$20,449,031

Conclusion

In alignment with s. 14.4 (g) of the Procurement of Goods and Services Policy, approval of a design-build contract through single source procurement to acquire the goods and services of EllisDon to complete the project is advantageous to the City pursuant to the procurement process conducted by HDC as another public body. In association with this approval, all transactions associated with the project will flow through the City's financial systems.

The site is ready for construction and is considered shovel-ready with zoning, site plan and building permit approvals in-place.

Approval of the design-build contract with EllisDon will secure the City's RHI Round 3 CMHC funding contribution by ensuring that the Project is started and completed within the timeline requirements of the existing Council-approved RHI Round 3 funding agreement.

Subject to the required approvals, Civic Administration will undertake all administrative acts necessary in connection with completion of the Project, in the preparation of an Operations Plan and Budget, and in aligning a future building operator to manage the future affordable rental housing apartment building.

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Recommended by: Scott Mathers, MPA, P.Eng.
Deputy City Manager, Planning and Economic
Development

cc: Housing Enterprise Action Team

Attached: APPENDIX A – By-law
APPENDIX B – Sources of Financing Report

APPENDIX A – By-law

Bill No.

By-Law No.

A by-law to authorize and approve the CCDC 14 Design-Build Stipulated Price Contract between The Corporation of the City of London and EllisDon Corporation for the New Multi-Residential Modular Affordable Rental Housing Development at 345 Sylvan Street and to authorize the Mayor and Clerk to execute same.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS the City is a Service Manager under the *Housing Services Act, 2011* and section 13 of the *Housing Services Act, 2011* provides that a service manager may establish, administer and fund housing and homelessness programs and services and may provide housing directly;

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

1. The CCDC 14 Design-Build Stipulated Price Contract between The Corporation of the City of London and EllisDon Corporation for the New Multi-Residential Modular Affordable Rental Housing Development at 345 Sylvan Street (“Agreement”), substantially in the form attached as Schedule 1 to this bylaw, is hereby authorized and approved.
2. The Mayor and Clerk are authorized to execute the Agreement approved under section 1 of this bylaw.
3. The Deputy City Manager, Planning and Economic Development is delegated the authority to authorize and approve amendments to the Agreement, including amending agreements, that do not require additional funding or are provided for in the City’s current budget, and that do not increase the indebtedness or contingent liability of The Corporation of the City of London.
4. The Mayor and Clerk are authorized to execute any amendments to the Agreement, including amending agreements, approved by the Deputy City Manager, Planning and Economic Development pursuant to section 3 of this by-law.
5. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First reading -
Second reading -
Third reading -

APPENDIX B – Sources of Financing Report