

## Report to Community and Protective Services Committee

**To:** Chair and Members  
Community and Protective Services Committee

**From:** Scott Mathers MPA, P.Eng.  
Deputy City Manager, Planning and Economic Development

**Subject:** Delegation of Authority for Municipal Contribution  
Agreements for Affordable Housing

**Date:** June 13, 2023

## Recommendation

That, on the recommendation of the Deputy City Manager, Planning and Economic Development:

- 1) the attached proposed by-law (Appendix "A") **BE INTRODUCED** at the Municipal Council meeting on June 27, 2023 to:
  - i. Authorize the Deputy City Manager, Planning and Economic Development, or their written designate, to approve and execute an agreement of assignment and assumption related to a Contribution Agreement between an affordable housing provider and The Corporation of the City of London.
  - ii. Authorize the Deputy City Manager, Planning and Economic Development, or their written designate, to approve and execute an amending agreement related to a Contribution Agreement between an affordable housing provider and The Corporation of the City of London to approve a rent increase for operations in financial difficulty. No rent for affordable units in a building to which a Contribution Agreement between an affordable housing provider and The Corporation of the City of London applies shall exceed 80% of Average Market Rent or Median Market Rent for a rental unit, by unit type as determined by the Canada Mortgage Housing Corporation.
  - iii. Authorize the Deputy City Manager, Planning and Economic Development, or their written designate, to approve and execute an amendment to the Contribution Agreement to provide for additional permitted encumbrances, to consent to postponements of the City's security under a Contribution Agreement and to approve and execute priority, standstill and subordination agreements satisfactory to the City Solicitor's Office.
  - iv. Authorize the Deputy City Manager, Planning and Economic Development, or their written designate, to approve and execute amendments, including amending agreements, to a Contribution Agreement between an affordable housing provider and The Corporation of the City of London to add requirements related to the affordable housing units, to add further affordable housing units, to address approved changes to the development schedule, project information form or increases to the equity contribution made by the affordable housing provider.
  - v. Authorize the Deputy City Manager, Planning and Economic Development, or their written designate, to approve and execute amendments, including amending agreements, to a Contribution Agreement between an affordable housing provider and The Corporation of the City of London to attaching or detaching a property from/to the Contribution Agreement as long is not in the detriment or loss of the total number of affordable units.

## Executive Summary

This report recommends that Municipal Council of The Corporation of the City of London delegate authority to the Deputy City Manager, Planning and Economic Development (“DCM”) or their written designate to approve certain agreements or amending agreements related to the City’s Contribution Agreements with affordable housing providers. The delegations seek authority for the DCM to approve:

- i. An agreement of assignment and assumption if the current affordable housing provider proposes to have another legal person own and operate an affordable housing development or where the agreement is being assigned from HDC to the City;
- ii. An amending agreement to a Contribution Agreement that would allow the affordable housing provider to increase the rent in affordable housing units to address financial difficulties;
- iii. An amending agreement to the Contribution Agreement to allow affordable housing providers to increase the encumbrances registered on the property, to provide authority to the DCM to approve the City postponing its security interest to other lenders and to approve and execute priority, standstill, and subordination agreements.
- iv. An amending agreement to the Contribution Agreement to add further operational requirements related to the affordable housing units, to add further affordable housing units, to address approved changes to the development schedule, project information form or increases to the equity contribution made by the affordable housing provider.
- v. An amending agreement to the Contribution Agreement to add further operational requirements related to attaching or detaching a property from/to the Contribution Agreement as long is not in the detriment or loss of the total number of affordable units.

These delegations of authority would allow Municipal Housing Development to efficiently respond to requests from affordable housing providers. These requests are part of the day-to-day business activities of Municipal Housing Development.

## Linkage to the Corporate Strategic Plan

Council and staff continue to recognize the importance of actions to support housing, as reflected in the 2023-2027 - Strategic Plan for the City of London. Specifically, the efforts described in this report address the following Areas of Focus, including:

- Housing and Homelessness
- Well-Run City

### Housing and Homelessness Strategic Area of Focus:

The following strategies are intended to “Increase access to a range of quality, affordable, and supportive housing options that meet the unique needs of Londoners”:

- Align policies and programs recognizing the broad range of factors that contribute to accessing and maintaining transitional, supportive, community, affordable and market housing.

The following strategies are intended to Decrease the number of Londoners at risk of or experiencing homelessness:

- Implement a program of continuous review of policies, procedures, and by-laws to create accountability and opportunities for balanced and compassionate solutions to homelessness

### Well-Run City Strategic Area of Focus:

The following strategies are intended for Londoners to have trust and confidence in their municipal government:

- Increase transparency and accountability in decision making, financial expenditures, and the delivery of municipal programs and services; and
- Continue to deliver municipal services that meet the needs of a growing and changing community.

The following strategies are intended to improve governance processes:

- Review municipal best practices, identifying gaps and opportunities, and deliver projects that improve performance; and

## Analysis

### 1.0 Discussion and Considerations

#### 1.1 Previous Reports Related to this Matter

- [Approval of the Service Manager Administration Agreement for the 2016 Social Infrastructure Fund \(SIF\) and pending assignment to HDC](#) (CPSC: July 19, 2016)
- [Assignment of Rental Component of Administration Agreement for the Investment in Affordable Housing for Ontario \(2014 Extension\) to HDC](#) (CPSC: September 22, 2015)

#### 1.2 Purpose

The purpose of this report is to improve the efficiency and effectiveness of administrative activities related to the provision of affordable housing through a delegation to the Deputy City Manager of Planning and Economic Development. As defined below, the contribution agreement has a standard set of conditions that have been reviewed in detail by the City Solicitor's office and previously approved by Council, and / or the former Housing Development Corporation's Board. The changes proposed under this delegation would be considered low-risk and immaterial to the original Council approval for the provision of affordable housing. The City's long-term financial interest associated with a grant or loan to the proponent is retained.

The proposed delegation will:

- Grant authority to the Deputy City Manager, or designate, to approve and execute the amendments to contribution agreements outlined in this report.
- Improve the administrative effort for affordable housing providers and retain the exiting units.
- Improve the efficiency of the review and approval process by 3 – 4 weeks through modification of the requirement for Council review of these minor amendments.
- Continue to include the City' Solicitor's review prior executing a change.

#### 1.3 Contribution Agreement Definition

A Contribution Agreement in this context is a contract between an owner and/or proponent and the City and/or the former Housing Development Corporation for the provision of affordable housing units. The contract sets out the terms and conditions for a loan, grant or financial incentive provided to the proponent with a specific set of conditions in return for the funds. As a funding vehicle, the contribution agreement aligns other government's funding and outlines the expectations of each party associated with the project. Typical terms in the agreement relate to number of units, period of the loan and depth of affordability.

## **1.4 Aligning Housing Development Corporation Policies with City of London Policies**

In January 2021, Council approved the integration of Housing Development Corporation into the City's affordable housing portfolio. As an output of that action, the Municipal Housing Development service area was established to continue the work of bringing more affordable housing to the London market.

Prior to its integration, the HDC developed policies and guidelines associated with mortgage postponements, rent increases, attaching and detaching, assignment and assumption requests. These policies established necessary governance and efficiency to accommodate business requirements and housing development viability for the City's affordable housing partners.

Through these contribution agreements, Municipal Housing Development (MHD) will continue to work with proponents to provide funding for the development, repair, and rehabilitation of affordable housing units.

## **2.0 Key Issues and Considerations**

The brief description below provides clarity about the nature of the Contribution Agreement Amendments to be exercised by this delegation of authority.

### **2.1 Postponements**

Affordable housing providers may make requests to renew, increase or replace the existing mortgage. These changes require a change to the permitted encumbrances or debt level permissible under the Contribution Agreement.

The City may permit the affordable housing provider to renew, increase or replace the existing first mortgage. A postponement allows the Proponent to confirm that the City agrees for its Municipal, Provincial or Federal contributions will rank or take effect in priority after another lender's mortgage. Municipal Housing Development is responsible for addressing and responding to all postponements for affordable housing developments related to standard mortgage renewals, including equity changes on mortgages that alter the outstanding balance.

Consistent with industry best practices, MHD will ensure 10% equity is maintained in the property and that the funds are being requested for improvements to affordable housing projects. Approval of any amendment that would reduce the equity in the project to less than 10% may be made on an exceptional basis and require a business case. Postponements will not be granted where adequate funds for capital repairs or improvements are available in the capital reserve fund.

### **2.2 Assignment and Assumption (Ownership Transfers)**

Affordable housing providers may request permission to assign or transfer the ownership of the housing project to another party which is going to assume the responsibilities and obligations under the Contribution Agreement. These agreements cannot be assigned without the City's consent.

Requests for assignment will be reviewed to ensure that the new party will continue to provide affordable units as agreed on in the original agreement.

### **2.3 Rent Increases**

Affordable housing providers may request permission to increase rents above the permitted Ontario Rent Increase Guideline or the affordability criteria in the Contribution Agreement.

These affordable housing providers are providing affordable housing units at less than 80% of the CMHC AMR or MMR rent. Rent increases will only be considered where projects are in financial difficulty that would impair their ability to continue to operate the

project. Approved rent increases will provide the necessary operating funds to make the project financially viable. Rents in affordable housing units shall not exceed 80% of current MMR or AMR as previously stipulated by the Contribution Agreement. Unless exceptional circumstances exist, rent increases will only be approved for vacant units. Following the approval of a rent increase, the proponent is responsible to ensure compliance with the Residential Tenancies Act.

In exceptional circumstances where a rent increase is required in occupied units, Municipal Housing Development will ensure arrangements are made to mitigate an overall impact.

#### **2.4 Attaching or detaching properties**

When a Contribution Agreement contains multiple properties, affordable housing providers may request permission to add or detach a specific property or address from the agreement.

When these requests are received, MHD will ensure that the total number and depth of affordable units is not reduced. Each building and project are unique, and an overall increase or reduction in the total operating costs of the buildings may have a net positive impact on the proforma.

#### **2.5 Annual Reporting**

An annual report will be provided outlining the actions taken by the DCM under the delegations made under the attached bylaw. This report will be included as an appendix to the annual Roadmap 3000 yearly update.

#### **2.6 Ongoing Council Authority**

Regardless of any delegations, a significant deviation from the agreements will require direction from Council. Changes or reductions in the total number of units, depth of affordability or period all require Council approval.

### **3.0 Financial Issues / Considerations**

There are no direct financial impacts associated with this ask. Any new funding sources requested will require a Source of Financing and reporting to Council.

### **Conclusion**

Municipal Housing Development receives requests to amend Contribution Agreements on a regular basis. These requests typically have a time sensitivity associated with the requested action and desired outcome. The delegation of authority to the Deputy City Manager, Planning and Economic Development to execute amendments to Contribution Agreements between affordable housing providers will improve the efficiency and effectiveness of the housing system.

<b>Prepared by:</b>	<b>Juan Cardona, MPA Program &amp; Business Lead, Municipal Housing Development</b>
<b>Submitted by</b>	<b>Matt Feldberg, MPA, CET Director, Municipal Housing Development</b>
<b>Recommended by:</b>	<b>Scott Mathers, MPA, P.Eng. Deputy City Manager, Planning and Economic Development</b>

#### **Attached:**

Appendix "A" – Bylaw

## Appendix “A” – Bylaw

Bill No.

By-Law No.

A by-law to authorize the Deputy City Manager, Planning and Economic Development to approve and execute certain agreements related to Contribution Agreements between affordable housing providers and The Corporation of the City of London

AND WHEREAS section 23.1 of the *Municipal Act, 2001* expanded the right of authority for City Council to delegate some of its powers and duties to a person or body.

It should be noted that the intent of Section 23.1 of the *Municipal Act, 2001* was to help streamline City Council’s decision-making process and enable it to focus on larger issues in a more strategic manner. Delegation of powers and duties could also be used to enhance community engagement on local issues;

AND WHEREAS section 10 of the *Municipal Act, 2001* provides that the City may provide any service or thing that the City considers necessary or desirable for the public, and may pass by-laws respecting same, and respecting economic, social and environmental wellbeing of the City including respecting climate change, and the health, safety and well-being of persons;

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 City is responsible for the delivery and administration of affordable housing initiatives;

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

AND WHEREAS any delegation of a power or duty shall be in accordance with the *Municipal Act, 2001*, S.O. 2001 c.25 and any other applicable legislation;

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

1. The Deputy City Manager, Planning and Economic Development, or their written designate, is authorized to approve and execute an agreement of assignment and assumption related to a Contribution Agreement between an affordable housing provider and The Corporation of the City of London.
2. The Deputy City Manager, Planning and Economic Development, or their written designate, is authorized to approve and execute an amending agreement related to a Contribution Agreement between an affordable housing provider and The Corporation of the City of London to approve a rent increase for operations in financial difficulty. No rent for affordable units in a building to which a Contribution Agreement between an affordable housing provider and The Corporation of the City of London applies shall exceed 80% of Average Market Rent or Median Market Rent for a rental unit, by unit type as determined by the Canada Mortgage Housing Corporation.
3. The Deputy City Manager, Planning and Economic Development, or their

written designate, is authorized to approve and execute an amendment to the Contribution Agreement to provide for additional permitted encumbrances, to consent to postponements of the City's security under a Contribution Agreement and to approve and execute priority, standstill and subordination agreements satisfactory to the City Solicitor's Office.

4. The Deputy City Manager, Planning and Economic Development, or their written designate, is authorized to amend a Contribution Agreement between an affordable housing provider and The Corporation of the City of London to add requirements related to the affordable housing units, to add further affordable housing units, to address approved changes to the development schedule, project information form or increases to the equity contribution made by the affordable housing provider.
5. The Deputy City Manager, Planning and Economic Development, or their written designate, is authorized to amend a Contribution Agreement between an affordable housing provider and The Corporation of the City of London to attaching or detaching a property from/to the Contribution Agreement as long is not in the detriment or loss of the total number of affordable units.
6. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on June

Josh Morgan  
Mayor

Michael Schulthess  
City Clerk

First reading -  
Second reading -  
Third reading -