

**Subject: Policy Framework for Voluntary Donations for Community Benefits –
Information and Options**

File Number: ACS2024-OCC-GEN-0011

**Report to Finance and Corporate Services Committee on 2 July 2024
and Council 10 July 2024**

Submitted on June 20, 2024 by Caitlin Salter MacDonald, City Clerk

**Contact Person: Kiel Anderson, Manager, Governance, Elected Officials and
Business Support Services**

613-580-2424 ext. 13430, kiel.anderson@ottawa.ca

Ward: Citywide

**Objet : Cadre stratégique pour les dons volontaires à vocation
communautaire – Information et options**

Numéro de dossier : ACS2024-OCC-GEN-0011

Rapport présenté au Comité des finances et des services organisationnels

Rapport soumis le 2 juillet 2024

et au Conseil le 10 juillet 2024

Soumis le 2024-06-20 par Caitlin Salter MacDonald, greffière municipale

**Personne ressource : Kiel Anderson, gestionnaire, Services de gouvernance et
de soutien aux activités et aux représentants élus**

613-580-2424, poste 13430, kiel.anderson@ottawa.ca

Quartier : À l'échelle de la ville

REPORT RECOMMENDATION(S)

**That the Finance and Corporate Services Committee recommend City Council
receive this report for information.**

RECOMMANDATION(S) DU RAPPORT

Que le Comité des finances et des services organisationnels recommande au Conseil municipal de prendre acte de ce rapport à titre informatif.

EXECUTIVE SUMMARY

This report responds to direction from City Council for staff to develop an updated policy framework for voluntary donations for community benefits, to address the matter of Members of Council soliciting and/or facilitating such donations. The City of Ottawa's current policy framework for such donations is set out in the [Donations to the City for Community Benefit Policy](#), which Council approved in 2018. The policy includes provisions relating to the assessment and acceptance of such donations. However, the policy only applies to City staff.

On January 24, 2024, following discussion relating to a proposed donation brought forward by a Member of Council, Council approved a motion that in part directed staff to develop an updated policy framework for voluntary donations for community benefits, "in order to ensure consistency of approach and application, to improve transparency, with a prescribed delegated of authority for the allocation of resources and that the policy include a toolkit and scripts to help bring uniformity and clarity to these discussions for all parties."

Staff undertook work to develop options for an updated policy framework and, in keeping with further direction set out in the motion, conducted public consultation that included an online survey and targeted outreach to the development industry. Staff considered the potential applicability of the City's existing policy framework to Members of Council, as well as matters such as the Code of Conduct for Members of Council, the integrity of the decision-making process, staff's role in any donation activity, and transparency and public disclosure. Staff's review focused on the specific matter of Member solicitation/facilitation of voluntary donations to the City, and not to any matters that would broaden the scope of the current Council-approved policy framework for voluntary contributions.

Recommendation and potential options

Staff developed two potential options for updates:

- **Option 1** would expressly permit Members to solicit and/or facilitate donations to the City with a total value of up to \$250,000 in accordance with various limitations as well as requirements regarding matters such as staff concurrence, transparency mechanisms and disclosure. This would be set out in new Donation Procedures for Members of Council, under the existing policy.
- **Option 2** would expressly prohibit Members from soliciting and/or facilitating donations to the City. Under this option, donations would be considered and accepted by staff under existing policy provisions. A Member would also have the

option to bring forward a proposed donation and/or facilitation approach for Committee and/or Council consideration by way of Councillor's report or motion.

Given that Member solicitation and/or facilitation of donations is acceptable from a legal and statutory perspective, and that Council may determine how it wishes for Members to exercise their statutory roles, staff do not recommend one option over the other and this report is provided with a recommendation that it be received for information. That said, should Council wish to adopt either option that is presented, or a modified or entirely different approach, it may do so by way of motion when this report is considered.

Should Council simply receive this report for information, without approving any option or approach, the practice of Member solicitation and/or facilitation of donations to the City would continue in the current ad hoc manner that is guided by a joint memorandum from the Interim City Clerk and City Solicitor, and Integrity Commissioner, which is provided in Document 1 of this report. Staff anticipate donation agreements and related matters would continue to be brought forward in an ad hoc manner through means such as Committee/Council motions and Councillor's reports.

RÉSUMÉ

Le présent rapport fait suite à la directive que le Conseil municipal a donnée au personnel de préparer une nouvelle version du cadre stratégique pour les dons volontaires à vocation communautaire traitant de la sollicitation ou de la facilitation de ce type de dons par les membres du Conseil. Le cadre actuel de la Ville d'Ottawa à ce sujet est énoncé dans la [Politique sur les dons à vocation communautaire destinés à la Ville](#), que le Conseil a approuvée en 2018. Cette politique traite notamment de l'évaluation et de l'acceptation de ce type de dons, mais ne s'applique qu'au personnel municipal.

Le 24 janvier 2024, à la suite de discussions sur un don proposé par une personne membre du Conseil, le Conseil a approuvé une motion qui demandait entre autres au personnel de préparer une nouvelle version du cadre stratégique pour les dons volontaires à vocation communautaire « afin d'assurer l'uniformité de la démarche et de l'application, d'accroître la transparence et de prescrire la délégation des pouvoirs d'allocation des ressources, politique qui devra inclure une trousse à outils et des scénarios afin de favoriser l'uniformité et la clarté des discussions pour toutes les parties ».

Le personnel s'est attelé à préparer des options pour actualiser le cadre stratégique et, conformément à d'autres instructions présentées dans la motion, a mené une consultation publique qui comprenait un sondage en ligne et des prises de contact ciblées avec le secteur de l'aménagement. Il a examiné la possibilité d'appliquer le cadre municipal existant aux membres du Conseil, ainsi que d'autres questions, comme

le *Code de conduite des membres du Conseil*, l'intégrité du processus décisionnel, le rôle du personnel dans les activités liées aux dons, la transparence et la divulgation au public.

Durant son examen, le personnel s'est concentré sur la sollicitation et la facilitation par les membres de dons volontaires à la Ville, et non sur des questions qui viendraient élargir la portée du cadre stratégique pour les dons volontaires actuel approuvé par le Conseil.

Recommandation et options potentielles

Le personnel a songé à deux options potentielles pour la mise à jour du cadre :

- **Option 1** : Autoriser expressément les membres à solliciter ou à faciliter des dons à la Ville d'une valeur totale ne dépassant pas 250 000 \$, conformément à diverses restrictions et exigences qui touchent notamment à l'accord du personnel, aux mécanismes de transparence et à la divulgation. Cette autorisation serait définie dans de nouvelles procédures de dons pour les membres du Conseil, qui seraient énoncées dans la politique existante.
- **Option 2** : Interdire expressément aux membres de solliciter ou de faciliter des dons à la Ville. Selon cette option, le personnel examinerait et accepterait les dons en fonction de la politique existante. Un membre pourrait aussi proposer un don ou une approche de facilitation au Comité ou au Conseil en présentant un rapport de conseillère ou conseiller ou une motion.

Étant donné qu'il est acceptable, sur le plan juridique, que les membres sollicitent et facilitent des dons volontaires, et que le Conseil a le droit de déterminer comment il souhaite que ses membres s'acquittent de leurs fonctions prévues par la loi, le personnel ne préconise pas une option par rapport à l'autre, et fournit le présent rapport en recommandant d'en prendre acte à titre informatif. Cela dit, si le Conseil souhaite adopter l'une des options présentées, une version modifiée de celles-ci ou une tout autre approche, il peut, pour ce faire, présenter une motion au moment de l'examen du rapport.

Si le Conseil prend simplement acte de ce rapport à titre informatif, sans approuver une option ou approche, les dons à la Ville sollicités et facilités par les membres continueront d'être traités au cas par cas, en fonction d'une note de service préparée conjointement par le greffier municipal et avocat général intérimaire et la commissaire à l'intégrité (document 1 joint au présent rapport). Le personnel s'attend à ce que des ententes de don et des questions connexes continuent d'être présentées ponctuellement, par exemple sous forme de motions du Comité ou du Conseil et de rapports de conseillères ou conseillers.

BACKGROUND

Members of Council have engaged in various activities relating to donations to the City for community benefits

Over the years, some Members of Ottawa City Council have solicited, facilitated and/or negotiated various donations for community benefits. Examples of such donations include commitments related to affordable housing or traffic calming, and parks and recreation improvements.

Due to the ad hoc way in which Members' activities with respect to donations have evolved, there is no centralized accounting of the number or nature of all types of donations received by the City through Member involvement. Nor is there a specific policy that has applied to Members' activities with respect to donations. However, staff are aware that such donations have been received or contemplated through various means and processes, including:

- Ad hoc donations – Donations from donors further to goodwill gestures, company programs/corporate mandates, etc.
- Formal agreements between the City and a donor – Donations enshrined in a Memorandum of Understanding (MOU) that includes matters relating to community benefits. Examples of such MOUs may be found in staff reports with respect to the Heron Gate area (considered by Council on [September 8, 2021](#)), the Manor Park area (considered by Council on [April 13, 2022](#)), and Bank Street development (considered by Council on [August 31, 2022](#)). Such agreements may also include “social contracts” that address matters such as tenant displacement in relation to a development.
- Specific “community benefits agreements” between a community and developer, with involvement of the Ward Councillor – In the Manor Park example noted above, the MOU provided in part that the development proponent agreed to “work with the Manor Park Community, Ward Councillor’s office and Ottawa Community Benefits Network, on a voluntary basis, to advance a Community Benefits Agreement (CBA) for the lands it owns or manages within or nearby the plan area to be governed by the Manor Park North and South Secondary Plan or elsewhere within the City of Ottawa’s Ward 13 or in other communities near the Secondary Plan area.” The MOU further provided that, “In addition to the affordable housing and no displacement strategy described in this MOU, the CBA discussions may result in a variety of other community benefits, as determined by the CBA process.”
- Special conditions negotiated under the Site Plan Control process – Previously, the *Planning Act* provided for Council approval of Site Plan Control, and

concurrence was required from Ward Councillors regarding site plans. In practice, Councillors could negotiate with developers during the site plan process, which in some cases resulted in special conditions that constituted community benefits. This practice is no longer possible further to changes to provincial legislation. For example, Bill 109, the *More Homes for Everyone Act, 2022*, received Royal Assent on April 14, 2022, and among its changes removed Council approval from the Site Plan Control process, meaning there is no longer a formal role for Councillors.

- Community benefits negotiated through the former Section 37 density bonusing process – Previously, Section 37 of the *Planning Act* allowed a municipality to acquire community benefits in exchange for increases in density through Zoning By-law amendment applications. Communities assisted in identifying local priorities established through collaboration with the Ward Councillor, and the Councillor was consulted during the negotiation process, as described in Council-approved [Section 37 Guidelines](#). This practice is also no longer possible further to changes to provincial legislation: Through the passage of bills and legislation, including Bill 108, the *More Homes, More Choices Act, 2019*, which received Royal Assent on June 6, 2019, Section 37 benefits were replaced with statutory community benefits charges that provide for more standardization around the benefits that must be provided and generally remove any negotiation from the process. The report titled, “[Community Benefits Charge Strategy and By-law](#),” which Council considered on August 31, 2022, states: “The effect of the Province’s statutory requirements is to restrict the negotiated practices perceived in Section 37 agreements and with zoning applications. The implementation of a [community benefits charge] moves away from negotiated practices – prioritizing a category and service area list made in advance of collecting the charge. In addition, in-kind contributions can be drawn down from a [community benefits charge], subject to the staff approval and ward Councillor engagement.”

Any approvals required for the City to accept or ratify the above-noted contributions or agreements occurred in various ways, including staff’s delegated authority, approval from Council through reports or motions, and established processes (e.g., Section 37 guidelines). While no general policy guided Members’ activities with respect to such contributions, the solicitation and/or facilitation of donations by an elected official was in keeping with statutory and legal considerations, as described below.

Solicitation and/or facilitation of donations by a Member of Council is permissible from a statutory and legal perspective

From a statutory perspective, the practice of Members soliciting and/or facilitating voluntary donations is generally permitted. The role of Council is set out in Section 224 of the *Municipal Act, 2001*, and includes the following:

- a) to represent the public and to consider the well-being and interests of the municipality;
- b) to develop and evaluate the policies and programs of the municipality;
- c) to determine which services the municipality provides;
- d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
 - (d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- e) to maintain the financial integrity of the municipality; and
- f) to carry out the duties of council under this or any other Act.

In accordance with this statutory role, the [Ontario Municipal Councillor's Guide](#) notes that, "As a councillor, you have three main roles to play in your municipality: a representative, a policy-maker, and a steward. These roles may often overlap."

From legal perspective, a contribution agreement between the City and a donor, entered into voluntarily, is within the City's legal power. Restrictions may apply in certain circumstances – for example, the City has no statutory or legal authority to impose a requirement for a donation as condition of Council's approval of a planning application, as noted in a joint memorandum issued to Council by the City Solicitor and Interim City Clerk, and Integrity Commissioner, on January 5, 2024. The joint memorandum addressed the matter of "the solicitation of voluntary contributions from developers during the planning process." The memorandum is provided in Document 1 of this report.

In comments made in the memorandum regarding the application of the Code of Conduct for Members of Council to voluntary contributions from developers, the Integrity Commissioner stated that a determination on whether it is permissible for Members to negotiate such contributions "**is a policy matter**, and therefore outside of the Integrity Commissioner's jurisdiction" [emphasis added]. Additional comments and recommendations from the Integrity Commissioner noted that:

- The Code of Conduct for Members of Council requires that Members avoid the improper use of influence of their office and sets out the expectation that Members perform their functions with integrity, accountability, and transparency.
- Should a Member enter into discussions with a developer about a voluntary contribution, the Integrity Commissioner recommends that the Member clearly communicate to the developer that any such contribution is completely voluntary. Members must not misrepresent the voluntary nature of the contribution in any way.
- When Members seek consideration of voluntary contributions from developers, the Code of Conduct for Members of Council continues to apply. If anyone believes that in seeking a contribution, or in undertaking any other action, a Member has contravened the Code, they may file a complaint with the Integrity Commissioner.
- Transparency mitigates real and/or perceived impropriety, and Members are encouraged to seek advice as needed.

The City of Ottawa’s current policy framework for donations for community benefits does not apply to Members of Council

The current policy framework for voluntary donations to the City for community benefits is set out in the [Donations to the City for Community Benefit Policy](#), which Council approved in 2018.

The policy was established following a playground project at Mooney’s Bay Park that was completed through a partnership between the City and a Toronto-based company. After receiving a complaint related to the project, the Integrity Commissioner conducted an inquiry that focused on determining whether unregistered lobbying had occurred, as described in the report titled, “[Report to Council on an Inquiry by the Lobbyist Registrar: Playground Partnership Project at Mooney’s Bay Park.](#)”

Council received the Integrity Commissioner’s report on July 13, 2016. On [November 1, 2016](#), the Finance and Economic Development Committee considered the 2014-2018 Mid-term Governance Review report and approved Motion No. 22/2. The motion cited the Integrity Commissioner’s report and directed staff to, “Review how a policy with respect to donations to the City of Ottawa for community benefits would complement the City’s existing regulatory tools and policies, including the *Delegation of Authority By-law*, the Public Engagement Strategy and the Accountability and Transparency Policy,” and report back to Committee and Council with recommendations and a draft policy for consideration.

The motion also noted the existence of a donation-related policy in the City of Toronto, and stated that “partnership opportunities that result in voluntary donations to the City of Ottawa for community benefits should occur in a manner that not only respects applicable legislative and policy provisions but enhances transparency and accountability while maintaining the integrity of municipal decision-making processes.” On [November 9, 2016](#), Council considered the 2014-2018 Mid-term Governance Review, as amended by the Finance and Economic Development Committee, and approved the recommendation with respect to the development of a draft donations policy.

On May 9, 2018, Council considered the staff report titled, “[Donations to the City for Community Benefit Policy](#),” and approved the policy. The report noted that staff who developed the policy undertook research to identify existing donation policies in other municipalities and public bodies, to gather informal practices already in place at the City, and to understand Canada Revenue Agency provisions relating to donations. The report further stated that the policy provides “clear parameters and delegated authorities to ensure that every aspect of considering a donation offer is conducted in accordance with parameters approved by Council.”

Current policy provisions

The current [Donations to the City for Community Benefit Policy](#):

- Applies to all City employees, and not to Members of Council.¹
- Defines “donation” as “a **voluntary** transfer of property” [emphasis added].
- Includes the following Policy Statement: “The City of Ottawa accepts donations as a means of enhancing municipal facilities and programs. Prior to accepting a donation, the City will ensure the review and assessment of the proposed donation to determine its usefulness, present and ongoing financial and operational impacts, and exposure to risk and/or liability.”
- Has a stated purpose “to define what constitutes a donation to the City, and provide clear direction and guidance to departments in accepting, managing, recognizing and allocating donations.” The Purpose section further notes that, “The City will comply with Canada Revenue Agency (CRA) and *Ontario Municipal Act* (OMA) regulations, as well as the City of Ottawa’s Donations Receipt Policy

¹ Members of Council are not included in the Application section of the policy. The policy expressly refers to Members in a section related to a requirement for staff to consult with “the applicable ward Councillor(s)” in certain cases; there is also a provision under “Limitations and Restrictions” that states that donations will not be accepted if they “Cause a City employee **or elected official** to receive any payment, product, service or asset for personal use or gain. ...” [emphasis added].

for the acceptance of charitable donations and the issuance of charitable donation receipts.”

The current policy does not apply to the following:

- Skills or service provided through the City’s Volunteer Program.
- Museum artefact donations of objects with possible historic value relevant to the City of Ottawa (Collections Management Policy).
- Funding or donations in-kind obtained from other levels of governments through normal transfers, payments or grant programs.
- Contributions from community organizations under the City’s Community Partnership grant programs, where enhancements to community facilities are cost-shared and where the terms of the partnership are created through another Council-approved policy.
- Contributions required under Sections 37 and 41 of the *Ontario Planning Act*.
- Developer contributions to enhance the development of new parks.
- Sponsorship arrangements (Sponsorship and Advertising Policy).

Current policy provisions address general requirements and matters such as accepting donations, limitations and restrictions (including donations in relation to the City decision-making process), consultation and public engagement requirements, management of donations, documentation and reporting requirements, donation receipts, and donation recognition standards.

City Council provided direction for staff to develop an updated policy framework that addresses Members’ activities with respect to donations

On [November 29, 2023](#), the Planning and Housing Committee considered the following motion:

WHEREAS residents see value in affordable housing and traffic calming; and,

WHEREAS these are two issues that are commonly subjects of discussion during development application consultations; and,

WHEREAS discussions between Katasa Group and Councillor Menard’s office have concluded in the former voluntarily agreeing to contribute funds toward traffic calming and affordable housing in Ward 17; and,

THEREFORE BE IT RESOLVED that Planning and Housing recommend that City Council authorize the City of Ottawa to enter into a Memorandum of

Understanding (MOU) with Katasa Group for the purposes of realizing the following two voluntary contributions:

- **\$100,000 for the Ward 17 traffic calming budget; and,**
- **\$200,000 for affordable housing in Ward 17. The use of these funds is under the discretion of the General Manager of Community and Social Services (in consultation with the Ward Councillor)**

During consideration of this matter, a discussion arose with respect to the solicitation and receipt of voluntary contributions from developers and what the City could legally enter into under the *Planning Act*, as well as what was permitted under the Code of Conduct for Members of Council. As such, the Committee directed the Integrity Commissioner and the Interim City Clerk to provide guidance to Members of Council on the provision of voluntary contributions. The Committee approved Motion No. PHC2023 – 19/06, which deferred the above motion to the Committee’s next meeting.

Further to the Committee’s direction, the City Solicitor and Interim City Clerk, and Integrity Commissioner issued their joint memorandum on January 5, 2024. As noted above, the joint memorandum (provided in Document 1) included comments with respect to the Code of Conduct for Members of Council and legal matters.

On [January 17, 2024](#), the Planning and Housing Committee considered and carried the deferred motion set out above. The Committee also issued a Direction to Staff, “To prepare a Memo to Council outlining potential guidelines for Councillors to negotiate additional voluntary contributions with particular attention to the new Legislation.”

On January 24, 2024, Council considered the report titled, “[Motion – Memorandum of Understanding with Katasa Group](#).” Following discussion, Council approved authorizing the City of Ottawa to enter into a Memorandum of Understanding with Katasa Group for the purposes of realizing two voluntary contributions, as amended by the following motions:

- Motion No. 2024 – 29-05, which provided as follows:

WHEREAS a number of formats for community benefits agreements have been used by the City of Ottawa over the last several years in the case of voluntary donations and other community benefits, including “social contracts” developed for Heron Gate development and subsequently for Manor Park Estates development; and

WHEREAS voluntary contributions have been advanced by Ward Councillors and staff for other developments despite the absence of a policy framework governing such contributions; and,

WHEREAS interpretations from the Integrity Commissioner to Councillors have indicated that the provision of voluntary donations for community benefits is a policy matter; and

WHEREAS the City of Ottawa's existing Donations to the City for Community Benefit Policy does not specifically address such developer contributions or provide guidance to Members of Council; and

WHEREAS other municipalities, including Toronto have established a policy to provide a framework for voluntary donations for community benefits;

THEREFORE BE IT RESOLVED that an updated policy framework for voluntary donations for community benefits be developed in order to ensure consistency of approach and application, to improve transparency, with a prescribed delegated of authority for the allocation of resources and that the policy include a toolkit and scripts to help bring uniformity and clarity to these discussions for all parties; and

BE IT FURTHER RESOLVED that public consultation including the development industry and the Minister of Municipal Affairs and Housing be included and that this policy be presented as part of mid-term governance report for Council's consideration.

- Motion No. 2024 – 29-06, which was divided for voting purposes and provided as follows:

BE IT RESOLVED that the Committee recommendation be amended to provide for the voluntary contributions received through the MOU with Katasa Group to be allocated as follows:

1. \$100,000 for City-wide traffic calming for allocation under the discretion of the General Manager of Public Works
2. \$200,000 for City-wide affordable housing under the discretion of the General Manager of Community and Social Services.

BE IT FURTHER RESOLVED that until such time as Council considers a new Policy Framework for voluntary contributions through the Mid-Term governance report, any future voluntary donation agreements with developers that may come forward be allocated on a City-wide basis under delegated authority of the respective General Manager.

On January 29, 2024, Katasa Group issued a statement indicating it would no longer provide the contributions as contemplated, citing in part that the process with respect to voluntary contributions was unclear.

On February 7, 2024, Council approved [Motion No. 2024 – 30-05](#), which provided that the timeline for developing an updated policy framework for voluntary donations for community benefits (as required under Motion No. 2024 – 29-05) be amended “such that the policy is brought forward for consideration by Finance and Corporate Services Committee and Council no later than July 2024.”

DISCUSSION

This report responds to City Council’s motions of January 24, 2024, and February 7, 2024, for staff to develop and present/bring forward an updated policy framework for voluntary donations for community benefits to address the matter of Members of Council soliciting and/or facilitating such donations.²

As described in this section, staff developed two options for Council’s information:

- **Option 1** would expressly permit Member solicitation and/or facilitation of donations to the City in accordance with a formal policy structure.
- **Option 2** would expressly prohibit Member solicitation and/or facilitation of donations to the City. This option would provide for any donations to the City to be considered and accepted by staff under existing policy provisions, or by Committee and/or Council by way of Councillor’s report or motion.

Work undertaken by staff to develop these options is described below, along with additional information regarding considerations and potential updated policy provisions.

Development of the potential options for an updated framework

1. Scope of the policy framework update

As described in the Background section of this report, the current policy framework with respect to donations to the City of Ottawa is set out in the [Donations to the City for Community Benefit Policy](#) that Council approved in 2018. The policy, which applies only to City employees, addresses “solicitation, consideration, acceptance, recognition and administration of all donations to the City.” The purpose of the policy “is to define what constitutes a donation to the City and provide clear direction and guidance to departments in accepting, managing, recognizing and allocating donations.”

² In responding to Council’s direction, this report also responds to the Planning and Housing Committee direction of January 17, 2024, to outline potential guidelines for Councillors to negotiate additional voluntary contributions with particular attention to the new legislation.

In accordance with Council's direction, staff focused on developing provisions that would incorporate Members into the current policy framework, and create options that could provide for Council to expressly permit or prohibit Member solicitation and/or facilitation as part of the updated framework.

That said, staff are aware that the matter of Member solicitation/facilitation of donations is only a small part of the picture when discussing the matter of contributions to a municipality for community benefits. Under legal and statutory authorities, a municipality may receive or generate such contributions through a wide range of formal and informal practices, strategies and processes. These may include ad hoc donations, formal statutory processes, comprehensive "community benefits agreements" negotiated between a developer and community, and formal Council-approved programs such as "community benefits frameworks" established for matters such as City land use and procurement.³ For example, the City of Toronto's [Community Benefits Framework](#) "focuses on ways to maximize the use of City of Toronto levers (such as procurement, real estate transactions, or financial incentives for specific sectors and uses) to create inclusive and equitable economic opportunities through community benefits initiatives."⁴

The City of Ottawa's current Donations to the City for Community Benefit Policy does not expressly contemplate broader community benefits agreements and frameworks. In keeping with the scope of Council's limited direction to develop updates that would incorporate Members into the existing framework, staff did not consider any approaches that would expand the breadth or purpose of the current policy.

Therefore, the review and proposed potential updates did not extend to the following matters, some of which would require Council direction to review, as well as significant work by staff:

- Broader community benefits agreements that may generally involve a community and developer (apart from any provisions that might apply to Member solicitation/facilitation of donations to the City if a Member was involved in such an agreement process), and broader community benefits frameworks that may apply to matters such as supply and procurement.

³ It should also be noted that terminology with respect to "community benefits agreements" and "community benefits frameworks" may be defined and/or used differently by various parties.

⁴ Toronto's Community Benefits Framework defines the term "community benefits" as referring to "a range of outcomes that may be included as conditions when the City buys, builds, provides financial incentives, or other unique opportunities where community benefits can be explored."

- Direct donations for residents or specific groups outside of the corporation of the City of Ottawa (e.g., “social contracts” that may address tenant housing matters; provision of transit passes to future occupants of a development; etc.). While such donations may have the effect of furthering City goals or initiatives, they are not donations provided “to the City.”⁵
- Donations/contributions to which formal statutory and/or policy processes and requirements apply, as these matters are subject to legislative provisions and/or Council direction regarding any Member involvement. For example, the review did not consider matters such as:
 - The Community Benefits Charge strategy, by-law and policy in place pursuant to the *Planning Act*, which is the current avenue for community benefits to be received through the statutory planning process.
 - Existing Council-approved initiatives that may incorporate community benefits.⁶
 - The Council-approved [Community, Fundraising and Special Events Policy](#), which provides guidance to Members on soliciting and accepting donations and sponsorships for Member-organized community events and supporting benevolent events.

Provisions of the existing Donations to the City for Community Benefit Policy that apply to City staff’s role and responsibilities were also considered to be outside the scope of the review, other than to add or clarify responsibilities or delegated authority to support Members soliciting and/or facilitating donations, if Council decides to update the policy framework to permit and formalize such activities.

2. Policy frameworks in other municipalities

Staff surveyed other Canadian municipalities regarding their policy frameworks for voluntary donations for community benefits. Most municipalities that responded did not provide any policies that expressly address the specific matter of solicitation and/or

⁵ That said, it is generally recommended that a Member consult with the Integrity Commissioner regarding the solicitation and/or facilitation of such donations and any obligations under the Code of Conduct for Members of Council.

⁶ For example, through consideration on November 22, 2023, of the report titled, “[Updated Ottawa Community Lands Development Corporation Name, Mandate, Policies and Procedures](#),” Council approved that Build Ottawa be directed to “incorporate potential community benefits including, but not be limited to equitable hiring practices, funding for training, public realm enhancements; and greater accessibility when developing evaluation criteria for the disposal of surplus lands.”

facilitation of such contributions by Members of Council, particularly outside of the statutory planning process, as described in Document 2 of this report.

Staff issued a survey to 15 municipalities and received responses from nine. Of those:

- Three cities (Toronto, Vancouver and Edmonton) have policies in place regarding voluntary contributions for community benefit.

The City of Toronto's [Donations to the City of Toronto for Community Benefit Policy](#) requires that donations occur at arm's length of decision-making processes such as planning approvals, and includes blackout periods in planning approval processes and procurement decision making processes during which discussions about voluntary donations for community benefits are not permitted and voluntary donations may not be offered, solicited or accepted. In contrast, contributions governed by the City of Vancouver's [Community Amenity Contributions Policy for Rezoning](#) and the City of Edmonton's [Policy C599 – Community Amenity Contributions in Direct Control Provisions](#) are offered, considered/negotiated and approved as part of specific planning approval processes.

Toronto's Donations to the City of Toronto for Community Benefit Policy is the only policy that expressly includes in its scope donations solicited and/or facilitated by Councillors.⁷ As noted in Document 2, however, City of Toronto staff indicated that in practice, Members do not typically solicit and/or facilitate donations.

- Four cities provided examples of policies that included donations:
 - As part of the planning process (Winnipeg and Montreal)
 - In a general donations policy that applies only to City employees (Regina)
 - For commemorative benches or trees for the City's parks (Halifax)
- Two cities (Brampton and Mississauga) indicated they do not have a policy regarding voluntary contributions.

As noted above, the City of Toronto has also established the Community Benefits Framework that seeks to leverage the City's investments to create inclusive and equitable economic opportunities. Toronto is in the early stages of extending the framework to private development through "voluntary community benefits plans" that would include thresholds for equity hiring and social procurement. In addition, the City of Vancouver's Community Benefit Agreements Policy seeks to ensure that developers promote growth for the communities they are investing in through local hiring and social

⁷ The City of Toronto's [Donations to the City of Toronto for Community Benefit Policy](#) refers to "donations requested or encouraged by Councillors...".

procurement. That said, such broader policy arrangements were not in the scope of staff's review.

3. Consultation with members of the public and the development industry, and providing Members of Council with an opportunity to give input

Staff conducted public consultation between April 12, 2024, and April 30, 2024, in order to meet the timelines for this report. In accordance with Council's direction, consultation included as follows:

- An Engage Ottawa webpage that included an online survey for members of the public. There were 70 submissions made through the survey.
- Targeted consultation with the development industry through emails and surveys issued to the Building Owners and Managers Association (BOMA Ottawa) and Greater Ottawa Home Builders' Association (GOHBA), with a request to distribute surveys to their membership. Staff received submissions from both associations.
- The Minister of Municipal Affairs and Housing was issued a letter that provided an opportunity to give feedback. There was no response received from the Minister.

In addition to the public consultation described above, the Interim City Clerk issued an email on March 1, 2024, which provided Members of Council with an opportunity to provide written comment or speak with staff as the updated policy framework was developed. Members were reminded of this opportunity in an email from the City Clerk on April 12, 2024.

What staff heard

A summary of information received through consultation is below.

Survey respondents

Most respondents to the Engage Ottawa indicated they were in favour of Members being permitted to solicit and/or facilitate donations to the City for community benefits.⁸ Generally, respondents in favour of solicitation and/or facilitation raised issues such as the following:

⁸ Certain respondents indicated they were in favour of Members facilitating donations, but not soliciting.

- Members have a representative role, and can provide community perspectives and advocate for improvements.
- Donations can have positive effects for communities and all parties involved. Some respondents suggested donations may offset impacts of development on communities, thereby benefitting the community as well as development proponents whose projects would be better received.
- There is a need for infrastructure, support and amenities (beyond what the City can provide on its own).

Respondents opposed to the practice of Members soliciting and/or facilitating donations cited issues such as:

- Potential for real or perceived conflict of interest.
- Potential effects on the relationship between a Member and donor, often in relation to the planning process. This included concerns with respect to imbalances of power, a potential sense of creating an obligation by one party either “buying” or “requiring” favour, and potential effects on future decisions or the outcome of an application before the City.
- Concerns related to solicitation, including suggestions that such activity is not part of a Member’s role.

When asked about rules that should apply if Members of Council are permitted to solicit and/or facilitate voluntary donations for community benefits, and the way in which accountability and transparency should be addressed, survey respondents raised potential requirements relating to matters such as:

- Documentation, reporting and recordkeeping.
- Public disclosure and Council notification.
- Involvement of an accountability/ethics office (e.g., the Integrity Commissioner) with respect to consultation and complaints.

A “What we heard” document that provides complete responses received from the online survey is provided in Document 3 of this report.

Development industry

BOMA Ottawa (The Building Owners and Managers Association) noted as follows:

- Facilitation “can be advantageous, provided that it is done with strict oversight and adherence to ethical standards.” Solicitation “runs the risk of different

projects being evaluated differently or developers having to ‘match’ other volunteer donations when they might not be appropriate for a given project.”

- When asked about rules that should apply if Members of Council are permitted to solicit and/or facilitate voluntary donations for community benefits, and the way in which accountability and transparency should be addressed, the association suggested:
 - Robust guidelines need to be in place to ensure transparent and equitable practices, and to minimize the risks of conflict of interest and unfairness.
 - Clear rules that prohibit council members from soliciting volunteer donations for community benefits from entities or individuals rather than facilitating them.
 - Regular audits with public disclosures of voluntary donations.
 - Voluntary donations from one entity or individual should be looked at in the context of the total donations by that entity or individual that are made to ensure that one donation is not accepted as a way to influence another decision on another project before council.
- Regarding the direction a policy should provide with respect to the City’s acceptance and allocation of donations solicited and/or facilitated by a Member of Council, the association stated:
 - Criteria for evaluation should consider if the donation can enhance community resources, increase civic engagement, and address specific local needs effectively.
 - If donations are not specific to one geographic region then distribution policies for donations should ensure that all areas and demographics within the community benefit proportionately.
 - Mechanisms for prioritizing projects based on community needs rather than the size of donations, should be considered.
 - Establish independent oversight committees to review donations offered and make recommendations on their value.
- The association also noted:
 - Any policy adopted should ensure that projects do not become favoured that have a greater donation attached to them in comparison to other projects.
 - A policy should not leverage one “gift” for a project against future “gifts.”

The Greater Ottawa Home Builders' Association (GOHBA) provided some suggested draft updates to localize the City of Toronto's [Donations to the City of Toronto for Community Benefits Policy](#). In addition, the association noted existing City policies that could potentially be used in updating the policy framework with respect to donations.

Members of Council

Most Members of Council who responded to the input opportunity provided by staff were in favour of Member solicitation and/or facilitation of donations. Generally:

- Some in favour of Member involvement in the donation process noted a need to seek resources wherever possible. Members suggested the evolution of the statutory planning process has removed the ability for elected officials to negotiate community benefits, and it is therefore important for Member to be able to solicit and/or facilitate voluntary contributions.
- Some opposed to Member involvement noted there are existing ways in which community benefits may be received, such as the statutory planning process that provides for community benefits charges. It was also noted that elected officials should not play any role in “negotiating” donations (which would remove the “voluntary” aspect from donations).

Potential options for updating the policy framework with respect to donations

In accordance with Council's direction and further to consideration of information received through public consultation and the municipal scan, staff assessed the potential applicability of the City of Ottawa's existing policy framework to Members of Council and developed two potential options for updates:

- **Option 1** would expressly permit Members to solicit and/or facilitate donations to the City with a total value of up to \$250,000 in accordance with various limitations, and requirements regarding matters such as staff concurrence, transparency mechanisms and disclosure.
- **Option 2** would expressly prohibit Members from soliciting and/or facilitating donations to the City. Under this option, donations would be considered and accepted by staff under existing policy provisions. A Member would also have the option to bring forward a proposed donation and/or facilitation approach for Committee and/or Council consideration by way of Councillor's report or motion.

Given that Member solicitation and/or facilitation of donations is acceptable from a legal and statutory perspective, and that Council may determine how it wishes for Members to exercise their statutory roles, staff do not recommend one option over the other. That

said, should Council wish to adopt either option, or a modified or entirely different approach, it may do so by way of motion when this report is considered.

Should Council simply receive this report for information, without approving any option or approach, the practice of Member solicitation and/or facilitation would continue in the current ad hoc manner that is guided by the joint memorandum from the Interim City Clerk and City Solicitor, and Integrity Commissioner, in Document 1. Staff anticipate donation agreements and related matters would continue to be brought forward through means such as Committee/Council motions and Councillor's reports.

Overarching considerations

Staff considered the following when developing the two options:

- Council provided direction to develop an updated policy framework “to ensure consistency of approach and application, to improve transparency, with a prescribed delegated of authority for the allocation of resources and that the policy include a toolkit and scripts to help bring uniformity and clarity to these discussions for all parties.”
- Member solicitation and/or facilitation of donations is permissible from a legal and statutory perspective, and Council may determine how it wishes for Members to exercise their statutory role. The Code of Conduct for Members of Council, overseen by the City's Integrity Commissioner, applies to a Member's activities when exercising their statutory role.
- Opinions vary with respect to the degree to which Members should be involved in donation-related activities, as indicated by public consultation. If solicitation and/or facilitation by Members is permitted, a balance must be struck with respect to Members' flexibility to exercise their roles, staff's ability to accomplish their work plan in accordance with Council direction, and budget and asset management considerations. There is also a need to maintain the integrity of decision-making processes, provide for accountability and transparency, and mitigate risks relating to matters such as conflict of interest and improper use of influence.
- The existing policy framework with respect to donations to the City (applicable only to City staff) already includes provisions with respect to matters including donation acceptance; limitations and restrictions; requirements in relation to the City decision-making process (including that donations to the City “shall only be accepted at arm's length from decision-making processes”); delegation of authority; consultation and public engagement requirements; donation management, documentation and reporting requirements; donation receipts; and donation recognition.

- A donation is a **voluntary** transfer of property. It is **not** required under legislation or policy, or as part of any decision-making, approval or application process. As such, any decision regarding whether to propose a donation should remain entirely in a potential donor's hands, without any ties to the outcome of decision-making processes, applications, etc. A potential donor's decision regarding whether to donate should not affect (either beneficially or adversely) any future interaction in statutory or policy processes with a Member of Council or the City of Ottawa.
- Members of Council have traditionally solicited and/or facilitated donations from various sources, and not only the development industry. Any updated policy framework should recognize this and apply to all donors and donation sources, regardless of affiliations with any sector.
- Separate requirements and procedures may apply to contributions for community benefit, such as those under the statutory planning process (e.g., the Community Benefits Charge strategy, by-law and policy).
- There does not appear to be a consistent well-used approach among municipalities, from a policy and practical perspective, regarding the specific matter of Members soliciting and/or facilitating donations.

Further to these general considerations, the options developed by staff are described in more detail below.

Option 1: Permit Member solicitation and/or facilitation of donations to the City

Summary

A Member would be permitted to solicit⁹ and/or facilitate¹⁰ a donation to the City for community benefit with a total value of up to \$250,000. Any solicitation/facilitation would be subject to adherence with the Code of Conduct for Members of Council and provisions regarding matters such as limitations and restrictions, decision-making processes, staff concurrence prior to donation acceptance, public disclosure, recordkeeping, and delegated authority. Council approval by way of resolution would be required for a Member to solicit and/or facilitate a donation with a total value of more than \$250,000. Requirements for Members would be set out in new Donation

⁹The draft Donation Procedures for Members of Council define "solicit" as: "The act of seeking to obtain a donation. Examples include a Member of Council issuing a general callout/list requesting donations for their ward, or approaching a potential donor with a donation opportunity in response to a specific ward issue."

¹⁰ The draft Donation Procedures for Members of Council define "facilitate" as: "The act of assisting with the donation process. Examples include a Member of Council working with a donor who approaches the City to determine an appropriate donation, or acceptance of a donation by a Member."

Procedures for Members of Council, under the existing Donations to the City for Community Benefit Policy.

With respect to allocation of donations, the procedures would state that in-kind and service donations (such as projects, assets or activities) would be provided to the ward specified by the donor, unless the donor advises that the intent of the donation is City-wide or multiple wards. Provisions relating to cash donations for which a purpose is specified by the donor would generally incorporate Council's previous direction; this would provide that such donations are deposited in a City-wide fund for the relevant program, for allocation by the relevant General Manager or designate, unless the Member seeks Council approval for a specific purpose.

Members would be required to clearly communicate to a potential donor that any donation is completely voluntary. The new procedures would provide that all donations made to the City through a Member's solicitation and/or facilitation must be given unconditionally and voluntarily without any expectation of benefit.

The procedures would identify a blackout period in the City's planning process during which the discussion, solicitation and/or facilitation of donations by a Member with a potential donor involved in the planning process is not permitted if the Member has a role in approving any outstanding planning matter related to the potential donor (e.g., consideration by Committee and/or Council). The blackout period for the planning process would begin when a potential donor submits an application for a pre-consultation, or an application for a planning approval. The blackout period would end when a final decision has been rendered on the application by the Ontario Land Tribunal, or the appeal period has closed. Limited exceptions would be possible under the procedures and would require approval from the Integrity Commissioner [the solicitation and/or facilitation must involve a matter unrelated to the approval of any outstanding planning matter(s) and be conducted separately from the statutory planning process undertaken by City staff].

Generally, Members would be required to consult with Planning staff regarding the status of any planning applications relating to a potential donor. It would be generally recommended that a Member consult with the Integrity Commissioner regarding any proposed solicitation and/or facilitation (including acceptance) of a donation in order to ensure the Member's obligations under the Code of Conduct for Members of Council and relevant provisions of the procedures are met. Certain provisions – such as seeking an exemption to the planning process blackout period, or matters with respect to solicitation/facilitation from a lobbyist (or their clients or their employees) with active registrations in the Lobbyist Registry – would expressly require approval from the Integrity Commissioner. A Member could consult with the City Clerk and City Solicitor, or their designate(s), regarding the applicability of any limitations and/or restrictions in relation to a proposed donation.

The procedures would provide that any formal solicitation of donations by a Member must be in writing, and solicitation guidelines would be provided to assist Members in meeting obligations with respect to solicitation.

A Member would be required to receive staff concurrence, in writing, prior to accepting a donation to the City. The General Manager or designate for the recipient department could provide concurrence after considering various matters, including any effects of acceptance on the department's work plan, budgets, resourcing and work capacity, as well as relevant City programs, standards, facilities, amenities, services and/or contractual commitments. A Member who does not receive staff concurrence could bring forward to Committee and Council a Councillor's report on the matter that provides comments from the Member and staff.

A mandatory templated Memorandum of Understanding (MOU) would be used in the acceptance of all donations to the City solicited and/or facilitated by Members, and would be disclosed on ottawa.ca. Accepted donations would also be subject to various reporting requirements. Members would receive updates twice per year regarding the status of donated projects, assets or activities that were solicited and/or facilitated by Members.

Under this option, policy framework updates would be made through:

- Establishing the new Donation Procedures for Members of Council, which include solicitation guidelines and the standardized MOU template, as set out in Document 5; and
- Amendments to the Donations to the City for Community Benefit Policy that would provide for Members' solicitation and/or facilitation in accordance with the new procedures, as set out in Document 4.

Characteristics of Option 1

Option 1 would:

- Recognize that Members may solicit and/or facilitate voluntary donations from a legal and statutory perspective.
- Assist Members in meeting their obligations under the Code of Conduct for Members of Council, while providing for flexibility.
- Ensure elected officials, potential donors, and members of the public are aware that donations are entirely voluntary, and set out the rights and responsibilities of the parties involved.

- Maintain separation from existing statutory processes through which the City may receive contributions for community benefits, such as community benefits charges. The option is intended to keep Member solicitation and/or facilitation at arm's length from decision-making processes that involve elected officials, and aims to mitigate the potential for real or perceived conflicts of interest and improper use of influence.
- Complement other policies that apply to Members of Council, including the Code of Conduct for Members of Council, Election-Related Resources Policy and Community, Fundraising and Special Events Policy.
- Ensure consistency of approach and application, as well as increased transparency, public disclosure, and a clear delegation of authority with respect to the allocation and management of donations.
- Provide templates to give clarity regarding interactions such as solicitation and formal acceptance of a donation.
- Align with comments received during public consultation that suggested soliciting and/or facilitating donations for community benefit is part of a Councillor's role.

Specific sections, provisions and rationale

- **Application** – The procedures would apply to all Members of Council when soliciting and/or facilitating donations to the City for community benefit. They would also apply to all City employees when supporting a Member's donation-related activities.

The procedures would not apply to matters that fall under other processes or policies, or that do not involve donations “to the City,” such as:

- Various matters to which the existing Donations to the City for Community Benefit Policy does not apply.
- Donations and/or contributions to which formal statutory and/or policy processes and requirements apply (e.g., Community Benefits Charges).
- Direct donations for residents or specific groups outside of the corporation of the City of Ottawa (e.g., “social contracts” regarding tenant housing matters; provision of transit passes to future occupants of a development; etc.)¹¹
- Donations and sponsorships for Member-organized community events and supporting benevolent events, to which the Community, Fundraising and Special Events Policy applies.

¹¹ As previously noted in this report, it is still generally recommended that a Member consult with the Integrity Commissioner regarding the solicitation and/or facilitation of such donations and any obligations under the Code of Conduct for Members of Council.

- Donations to the City that are not solicited and/or facilitated by Members, to which the Donations to the City for Community Benefit Policy applies.
- **General requirements** – The procedures would require that a Member's donation-related activities conform to the Code of Conduct for Members of Council.

Other general provisions are meant to mitigate the risk of a real or perceived conflict of interest, and any concerns regarding the improper use of influence. For example, the procedures state that donations to the City must only be accepted at arm's length from decision-making processes. Generally, if a Member has a current or foreseeable role in any decision-making process that involves the donor (e.g., forthcoming consideration of a matter at Committee or Council; providing Councillor concurrence to staff regarding a matter under staff's delegated authority; etc.), the Member must not solicit and/or facilitate a donation from the donor without approval from the Integrity Commissioner, including any required Terms and Conditions.

All donations made to the City through a Member's solicitation and/or facilitation must be given unconditionally and voluntarily without any expectation of benefit. Donations to the City for community benefit are not to serve as an alternative to paying for fees, permits, programs, and/or services. A requirement for a Member to clearly communicate to the potential donor that any donation is completely voluntary aligns with the Integrity Commissioner's advice as contained in the January 2024 joint memorandum with the Interim City Clerk and City Solicitor.

As noted above, a Member may solicit and/or facilitate a donation with a total value of up to \$250,000. Council approval by way of resolution would be required for a Member to solicit and/or facilitate a donation with a total value of more than \$250,000. Establishing a limit on the total value of a donation would provide certainty and allow a potential donor and Member to better assess what may be possible when considering any donation.

With respect to a Member's solicitation of donations, the requirement that any formal solicitation be in writing would improve transparency and clarity between the Member and a potential donor. This process would be assisted by solicitation guidelines that are provided as an appendix to the procedures. Among other things, the guidelines encourage Members to make general list of ward priorities, with any costing information provided by staff, to assist potential donors with determining an appropriate donation. The guidelines also provide templated language that a Member could include in any solicitation, which responds to Council's direction for the updated policy framework to include "a toolkit and scripts to help bring uniformity and clarity to these discussions for all parties."

- **Limitation and restrictions** – Various limitations and restrictions under the current Donations to the City for Community Benefit Policy would apply. In addition, the following provisions within the procedures would assist in mitigating various risks:
 - A Member must not solicit and/or facilitate a donation from a lobbyist or their clients or their employees with active registrations in the City's Lobbyist Registry without approval from the Integrity Commissioner, including any required Terms and Conditions.
 - The blackout period in the City's planning process, as described above, would ensure any solicitation and/or facilitation of donations by a Member occurs outside of the statutory planning process conducted by staff. The procedures would provide for limited exceptions to be made, subject to Integrity Commissioner approval, while still maintaining a distance from an active planning application. While Members rarely play any role in the procurement process, a similar blackout period would be applicable in such instances.
 - In the year of a regular election, a Member who is seeking re-election must not solicit and/or facilitate donations in the time period between Nomination Day and Voting Day.
- **Accepting or declining a donation to the City** – A Member would be required to receive staff concurrence, in writing, prior to formally accepting a donation to the City. This requirement would provide for staff to assess any effect(s) that acceptance of the proposed donation may have on a wide range of matters including operational matters, budgets and resourcing. Staff would consider matters such as accessibility requirements, costs to the City, impacts on other departments, and effects on any relevant City, Council-approved or statutory programs and/or standards as well as existing City facilities, amenities, services and/or contractual commitments. This approach would also ensure that a funding source is identified for any City contribution to a donation that may be required. Staff's concurrence, and the identification of any applicable funding source, would be included in the MOU for an accepted donation, to increase transparency.

If staff do not provide concurrence, the Member would receive a written summary of staff's reasons for not providing concurrence. If the Member still wished to pursue the donation, the Member must complete a Councillor's report to Committee and Council to obtain final direction from Council. In addition to the Member's comments regarding the proposed donation, the report would include

staff comment regarding staff's position and implications if Council were to approve the proposed donation.

A Member may also consult with staff prior to declining any donation. The Member may elect to decline the donation regardless of staff's assessment. If a Member declines a donation, the potential donor must be advised of the reason and thanked for the offer. The potential donor is not precluded from offering the donation to another Member of Council in accordance with the procedures, or to City staff in accordance with the Donations to the City for Community Benefit Policy.

- **Consultation and public engagement** – There are no requirements for public consultation and engagement under the procedures, given the Member's role as the duly elected representative. However, this does not preclude a Member from conducting their own public consultation, engagement, or additional consultation with staff.
- **Allocation and management of donations under delegated authority** – With respect to allocation of donations, provisions would generally incorporate the previous direction issued by Council regarding cash donations and provide as follows:
 - In-kind and service donations (such as projects, assets or activities) would be provided to the ward specified by the donor, unless the donor advises that the intent of the donation is City-wide or multiple wards.
 - Where the donor specifies a purpose for a cash donation, such donation would be deposited in a City-wide fund for the relevant program, for allocation by the relevant General Manager or designate, unless the Member seeks Council approval for a specific purpose.
 - Where the donor does not specify a purpose, a cash donation would be allocated to the general revenue of the City, unless the Member seeks Council approval for a specific purpose.

Regarding donation management by staff, some provisions within the procedures are similar to those within the existing Donations to the City for Community Benefit Policy, which provides for consistency in the treatment of donations to the City.

In addition, updates to existing policy provisions in order to incorporate donations solicited and/or facilitated by Members of Council in the framework, under the procedures, would provide that the relevant General Manager or designate would have delegated authority with respect to prioritization and implementation matters relating to the donation, in consultation with the Ward Councillor and the Member

who solicited and/or facilitated the donation, as applicable, and subject to providing status updates to Members of Council twice per year as described below. The procedures would provide that donations solicited and/or facilitated by a Member that remain unspent at the end of the year may be carried over to the following budget year, and would be subject to regular Council reporting requirements.

- **Documentation and reporting requirements** – The Member and their Office would be required to create, receive and maintain appropriate records of donation-related activity in accordance with statutory and policy requirements, including the *Municipal Freedom of Information and Protection of Privacy Act* and the Records Management Policy.

The completed MOU template for accepted donations would be reviewed and executed by staff, and these agreements would be disclosed on ottawa.ca on a quarterly basis. The use of the MOU as the acceptance mechanism for all donations solicited and/or facilitated by Members of Council would contribute to disclosure and transparency, and responds to Council's direction in this regard, while also providing an element of the "toolkit" for Members. The MOU template includes information regarding matters such as:

- Written confirmation that the donation is being given unconditionally and voluntarily without any expectation of benefit.
- The Member's role in soliciting and/or facilitating the donation (including the date that initial communication occurred between the Member and donor).
- A description of the community benefits being donated and their purpose.
- The donor's statement of intent for the donation.
- City staff's concurrence regarding the donation.

With respect to reporting requirements, the names of Member(s) who solicited and/or facilitated a donation would be included in reports to Council required under the existing Donations to the City for Community Benefit Policy.

Staff would also be required to provide all Members with updates twice per year regarding the status of donated projects, assets or activities that were solicited and/or facilitated by Members. These status updates would be provided via memorandum coordinated by the Office of the City Clerk, and the memorandum would be published as Information Previously Distributed on the next Finance and Corporate Services Committee agenda.

- **Donation receipts and recognition standards (including recognition thresholds and related matters)** – Existing provisions of the Donations to the

City for Community Benefit Policy with respect to donation receipts and recognition standards (including recognition thresholds, Lobbyist Registry requirements and naming rights provisions), and the related responsibilities and delegated authority of staff, would apply to donations solicited and/or facilitated by Members. This approach would provide for staff to administer these matters in a manner consistent with the established existing policy.

Option 2: Prohibit Member solicitation and/or facilitation of donations to the City

Summary

Members would be prohibited from soliciting and/or facilitating voluntary donations to the City for community benefit, in accordance with any motion/resolution approved by Council. Possible policy provisions would set out options for Members who are approached by a potential donor, including requirements for the Member to direct the potential donor to staff, or to bring forward the proposal for Committee and/or Council consideration, as described below.

These policy framework updates would be made through amendments to the existing Donations to the City for Community Benefit Policy, as set out in Document 6.

Characteristics of Option 2

Option 2 would:

- Ensure elected officials, potential donors, and members of the public are aware of their ability to donate through the existing policy.
- Aim to mitigate concerns regarding real or perceived conflict of interest and improper use of influence in relation to Member involvement in donations to the City.
- Ensure consistency of approach – through the single existing policy – while providing Members with the option to bring forward a donation proposal and/or proposed facilitation approach (that may involve the Member) for Committee and/or Council consideration.
- Complement other policies that apply to Members of Council, including the Code of Conduct for Members of Council, Election-Related Resources Policy and Community, Fundraising and Special Events Policy, as well as existing statutory processes through which the City may receive community benefit contributions.
- Provide for transparency and a clear delegation of authority with respect to the acceptance and management of donations through staff under the existing policy.

- Align with comments received during public consultation that suggested Members should not have a role in soliciting and/or facilitating donations.

Specific provisions and rationale

As Members would be prohibited from soliciting and/or facilitating donations to the City, if a potential donor approached a Member with a proposal regarding such a donation, the Member would be required to:

- Direct the potential donor to City staff to address the proposal in accordance with the existing Donations to the City for Community Benefit Policy. This would provide for the current Council-approved framework to be applied to consideration and potential acceptance of the donation by staff; or
- Bring forward the proposed donation and/or a proposed facilitation approach (that may involve the Member) for Committee and/or Council consideration and approval by way of Councillor's report or motion. This would provide for Council to consider exceptions to the general prohibition on Member solicitation/facilitation upon considering the circumstances of a proposed donation brought forward by the Member.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

LEGAL IMPLICATIONS

As noted in the January 5, 2024, memorandum from the former City Solicitor and Interim City Clerk, a contribution agreement between the City and a third-party donor, entered into voluntarily, is within the City's legal power. As such, there are no legal impediments to Council approving either of the options set out under Option 1 or Option 2 as described in this report.

CONSULTATION

As noted in the report, staff conducted public consultation between April 12, 2024, and April 30, 2024, in order to meet the timelines for this report. In accordance with Council's direction, consultation included as follows:

- An Engage Ottawa webpage that included an online survey for members of the public. A "What we heard" document is provided in Document 3.
- Targeted consultation with the development industry through emails and surveys issued to the Building Owners and Managers Association (BOMA Ottawa) and

Greater Ottawa Home Builders' Association (GOHBA), with a request to distribute surveys to their membership.

- The Minister of Municipal Affairs and Housing was issued a letter that provided an opportunity to give feedback.

In addition to the public consultation described above, Members of Council were provided with an opportunity to provide written comment or speak with staff as the updated policy framework was developed.

ACCESSIBILITY IMPACTS

Staff considered accessibility impacts when considering options for updating the policy framework for voluntary donations to include Members of Council. Both options provided in this report would ensure accessibility requirements are assessed in the consideration of any donation.

SUPPORTING DOCUMENTATION

Document 1 – Memorandum regarding voluntary contributions from developers (January 5, 2024)

Document 2 – Municipal scan results

Document 3 – Public consultation results – “What we heard”

Document 4 – Proposed amendments to the Donations to the City for Community Benefit Policy (under Option 1)

Document 5 – Draft Donation Procedures for Members of Council (under Option 1)

Document 6 – Proposed amendments to the Donations to the City for Community Benefit Policy (under Option 2)

DISPOSITION

Depending on any approach directed by City Council, staff will implement any required policy updates in the manner described in this report.