

Attachment 2

Summary Description of Amendments to the Current Shareholder Direction to Toronto Community Housing Corporation

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| Date: | October 16, 2013 |
| To: | Executive Committee |
| From: | City Manager |

Article 1: Interpretation

Article 1 sets out the definitions used in the document which were modernized, include additional definitions for clarity and support increased reporting requirements.

General Amendments to Improve Clarity:

- adding a definition of the document as a “Shareholder Direction” rather than simply a “Direction” and to distinguish the document from a Direction from the Shareholder, being City Council;
- adding new definitions , including those for the City Auditor General, the City CFO (Deputy City Manager and Chief Financial Officer), Business Plan, financial management expertise, TCH CEO, the City Manager, Directed by Council, Joint Venture, Local Housing Corporation, and Service Manager;
- stating that reference to a City official includes any person acting in that capacity or any successor officer appointed or designated as being responsible for the service area included in that office (s. 1.2).

Article 2: Introduction

Article 2 sets out the purposes served by the City’s issuance of a Shareholder Direction to TCH.

General Amendments to Improve Clarity:

- identifies the City’s status as the sole shareholder of TCH (s. 2.1);
- states recognition by the City of the Board’s authority to manage or supervise the management of the business and affairs of TCH in accordance with the Shareholder Direction (s-s. 2.2 (b)).

Article 3: Shareholder Principles

Article 3 sets out City Council’s objectives and operating principles to be met by TCH in the conduct of its operations. Previously, these subjects were addressed in differing levels

of detail in separate sections with the result that these provisions were repetitive and often unclear.

General Amendments to Improve Clarity:

- the previous separate sections on the objectives, principles and business of TCH were consolidated, simplified and categorized under headings for ease of reference and to clarify objectives and principles where necessary (s-s. 3.1.2);
- outdated statements that no longer apply and overlapping objectives were removed but objectives and principles that continue to apply to TCH were retained (s-s. 3.1.2);
- new principles were added such as establishing policies for the management of financial risk, directing material compliance with all applicable laws and that TCH will seek out methods to operate as efficiently as possible including consideration of reviews of programs, services and processes and opportunities to share services with other providers (s-s. 3.1.2 (b), (d) and (i)); and
- previous direction that the TCH Board is responsible for determining and implementing the appropriate balance among the Shareholder's principles, that TCH will employ its own staff and that it will maintain its assets in good repair were continued (s-s. 3.1.2 (a), (f) and (h)).

Enhanced Accountability Measures:

- requiring that TCH conduct its affairs and governs its operations in accordance with such rules, policies, directives or objectives as directed by City Council (s-s. 3.1.1);
- requiring that TCH will be accountable for achieving stated results, meeting the intent of the Shareholder Direction and meeting the reporting requirements in the Direction and as required by the City from time to time (s-s. 3.1.2 (k));
- providing that TCH will consult with tenants through an efficient and effective tenant participation system on issues and policies that will have an impact on service standards of the level of services, and communicate such policies and changes to policies to all tenants (s-s. 3.1.2 (m));
- implementing a recommendation of the report of the Special Housing Working Group directing TCH to operate with an emphasis on supporting opportunity and independence for tenants, providing responsive customer service, promoting tenant satisfaction and supporting access to information and services by its diverse communities (s-s. 3.1.2 (o)).

Article 4: Mandate of Toronto Community Housing

Article 4 sets out the mandate of Toronto Community Housing. It also sets out provisions regarding the governance of TCH's subsidiaries and joint ventures. Subsidiaries are defined in the Shareholder Direction as entities of which TCH owns more than 50% of the voting rights while TCH joint ventures are defined as partnerships or entities where TCH owns 50% or less of the voting rights.

General Amendments to Improve Clarity:

- a restated mandate that defines TCH’s core mandate as the provision of affordable and subsidized rental housing, in a state of good repair, to low and moderate income households in Toronto (s. 4.1);
- in support of that mandate, the Shareholder Direction permits TCH to undertake additional activities subject to TCH’s ability to abide by the Shareholder Direction, its funding arrangements and the ability of the TCH Board to demonstrate adherence to the Shareholder Direction (s. 4.1)
- the development of new affordable and subsidized rental housing, including the revitalization and redevelopment of TCH lands and buildings, is permitted in support of its mandate (s-s. 4.1 (c));
- consolidated and restated provisions governing the creation and governance of subsidiaries (s. 4.2); and
- new requirements concerning the governance of joint ventures that are similar to those that apply to subsidiaries (s. 4.3).

Article 5: Board of Directors

This section dealing with TCH’s Board of Directors was previously titled “Operation and Control” and was re-named to better reflect its contents.

General Amendments to Improve Clarity:

- amended section setting out the responsibilities of the TCH Board (s. 5.1);
- new section added requiring TCH board meetings to be open to the public (s. 5.2); and
- sections requiring adherence to a conflict of interest policy and maintenance of confidentiality have been continued (s. 5.3 and 5.4).

Enhanced Accountability Measures:

- relocated section stating that the remuneration of TCH Directors shall be determined by City Council (s. 5.5);
- adding a new requirement reflecting provisions of the *City of Toronto Act, 2006* that require TCH to report the total remuneration and expenses paid to each member of the TCH Board to the City annually (s. 5.5); and
- adding clarifications that TCH Directors may be removed by the Shareholder for any reason or for failure to attend three or more consecutive meetings of the Board or its committees without approval by the Board (s. 5.6);
- adding that the Board will be responsible for ensuring that TCH has a whistle blower protection policy (CC36.5 and s-s. 5.1 (o)).

Article 6: Board Structure

This section consolidates provisions from the current version of the Shareholder Direction, the Public Appointments Policy and the Policy on Board Governance Structures regarding the composition of the Board and the qualifications of Directors, the

nomination processes for councillor, tenant and citizen Directors, the appointment of a Chair and Vice-Chair, notice of Board vacancies and the term of the Board.

General Amendments to Improve Clarity:

- specifying the composition of the Board in accordance with the Public Appointments Policy (s. 6.1);
- advising that in naming Directors, the Shareholder will give due regard to the provisions of the Public Appointments Policy, the retention of incumbent Board members to provide institutional memory, and the qualifications of individual candidates to ensure the board collectively represents a range of relevant skills, knowledge and experience (s-s. 6.2.1);
- setting out the nomination processes for Councillor, citizen and tenant directors (s. 6.3, 6.4 and 6.5); and
- updating the terms of Councillor, tenant and citizen directors to bring them into conformity with the Public Appointments Policy and indicating that Directors serve at the pleasure of Council (s-s. 6.8.1).

Enhanced Accountability Measures:

- requiring that at least one director has financial management expertise to implement the direction of City Council in its decision regarding Item EX4.7 (2011) (s-s. 6.2.2).

Article 7: Shareholder Matters

Article 7 concerns management of the City’s relationship with TCH as its Shareholder. These sections specify the process to be used and the City liaisons to be consulted when TCH seeks an approval or decision from the City as its Shareholder.

General Amendments to Improve Clarity:

- revisions to clarify the wording of sections listing matters requiring shareholder approval under the *Business Corporations Act* (Ontario) (“OBCA”) (s. 7.3 and 7.4); and
- clarifying wording requiring TCH to act in compliance with all applicable law, stating that legislation prevails over the Shareholder Direction in the event of any conflicts, and that if any such conflicts arise requiring TCH to notify the Shareholder and seek the City’s cooperation in resolving such conflicts (s. 7.5).

Enhanced Accountability Measures:

- setting out reporting procedures for how Shareholder approval of matters is to be obtained (s-s. 7.1);
- providing for governance, financial and program liaison with the City through the offices of the City Manager, City CFO and City General Manager, Shelter, Support and Housing Administration Division, respectively (s-s. 7.2);

- requiring that without Shareholder approval TCH shall not, and shall ensure that its subsidiaries do not, provide any financial assistance to any director, officer or employee of TCH, its subsidiaries or its joint ventures (s-s. 7.4.1 (e)); and
- applying the provisions of the OBCA regarding amendments to TCH's by-laws (s-s. 7.4.2).

Article 8: Funding Relationship with City and Operating Agreement

Article 8 concerns management of the City's relationship with TCH as the Service Manager pursuant to the *Housing Services Act, 2011* ("HSA"). The operating agreement between the City and TCH regulates the payment of subsidies to and the administration of social housing programs by TCH pursuant to the relevant Provincial legislation, the HSA. Amendments were made to streamline and update certain language but the basic structure and provisions of the previous version of the document were continued.

General Amendments to Improve Clarity:

- general updates to legislative references and position titles;
- providing that the funding relationships between the City and TCH do not constitute a guarantee by the City of any debt issued or payable by TCH (s-s. 8.2.2); and
- stating that one of the principles of the operating agreement shall be that TCH seek out methods to operate as efficiently as possible (s-s. 8.3 (b)).

Enhanced Accountability Measures:

- stating that one of the principles of the operating agreement is that TCH shall provide financial and other information to the City that establishes or validates a level of City funding consistent with the requirements of the HSA (s-s. 8.3 (e)).

Article 9: Tenant Matters

Article 9 addresses TCH's relationship with its tenants. Amendments were made to streamline and update certain language but the basic structure and provisions of the previous version of the document were continued. An additional provision requires that all TCH's communications with its tenants will be undertaken in English and the language of the tenant's choice.

Article 10: Accountability

Article 10 concerns the provision of financial and business reporting to the City.

General Amendments to Improve Clarity:

- re-titling TCH's Community Management Plan as its Business Plan and defining it to include long term business strategies, key multi-year targets, performance indicators and financial plans (s-s. 10.1.1);
- providing that Council will provide comments on the draft Business Plan (s-s. 10.1.4);
- identifying the City Manager, the City CFO, the City General Manager, Shelter, Support and Housing Administration, the City Solicitor and the City Auditor General

as representatives of the City for the purpose of having access to the books and records of TCH (s. 10.3).

Enhanced Accountability Measures:

- providing that TCH’s annual business plan shall contain a four year operating budget and a five year capital plan (s-s. 10.1.1 (d));
- providing that TCH’s business plan be prepared every four years and updated annually and submitted to the City annually so that it may be included in the City’s financial planning process (s-s. 10.1.3);
- requiring that TCH will provide an annual report to the City within 120 days of its year end (s-s. 10.2.1);
- requiring that TCH’s annual report to the City discuss the achievement of financial and service targets in its business plan and operating agreement, including explanations for any variances between actual results achieved and targets set (s-s. 10.2.1 (c));
- requiring that TCH’s annual report discuss initiatives to provide responsive customer service, its tenant engagement activities, information on the disposition and uses of funds provided to TCH by the City and the status of the sale of any of its properties and the impacts on tenants or communities resulting from such sales as recommended by the report of the Special Housing Working Group (Item EX23.4 (2012)) (s-s. 10.2.1 (d), (e), (k) and (l));
- reporting on the achievement of matters set out in TCH’s operating agreement with the City (s-s. 10.2.3);
- reporting senior executive compensation as permitted by law (s-s. 10.2.4);
- providing that the City Auditor General may conduct periodic operational audits and setting out that such reports are to be considered first by the TCH Board and forwarded immediately thereafter to the City’s Audit Committee for consideration and recommendation to City Council as directed by City Council in Item EX23.8 (2012) (s-s. 10.4.3);
- requiring that TCH provide audited consolidated and unconsolidated annual financial statements and quarterly unaudited financial statements to the City (s. 10.6).

Article 11: Financial Year End

Article 11 states that TCH’s financial year end shall be December 31 to correspond with the City’s financial year end.

Article 12: Employment, Procurement and Related Matters

Article 12 relocates employment and related matters from the current version of the Shareholder Direction and adds a requirement from the report of the City’s Auditor General regarding procurement at TCH.

General Amendments to Improve Clarity:

- continuing language in the current Shareholder Direction regarding the payment of fair wages for contracted services consistent with that of the *City* and recognizing its responsibilities as a public sector employer that is a model to the community (s. 12.1 and 12.3).

Enhanced Accountability Measures:

- requiring that all procurement activities use tendering processes, adhere to procurement best practices, policies and procedures and are managed in an open and transparent manner (s. 12.2).

Article 13: Emergency Human Services Planning and Response

This section was introduced after the fire at the TCH building at 200 Wellesley Street East. Article 13 requires that TCH provide key contact information to the City's Office of Emergency Management in the event of emergencies. This article also provides that the leadership of emergency human services response in emergencies involving the displacement of tenants shall be the City Office of Emergency Management according to Council's Emergency Human Services Policy.

Article 14: Member of the Social Housing Sector

Article 14 contains relocated text in the current version of the Shareholder Direction concerning TCH's role in the social housing sector in Ontario, but includes a new provision that TCH shall make clear in conducting advocacy that it speaks on its own behalf and not on behalf of the City.

Article 15: Amendments

This article states that the Shareholder Direction may be amended or terminated solely at the City's discretion and that the City will provide prompt written notice to the TCH Board of any amendments or termination.

Article 16: Notice

This section provides the names and contact information for persons at TCH and the City for the purpose of giving notice.