

## **BUDGET COMMITTEE- JANUARY 31<sup>ST</sup>, 2005**

### **THE CITY OF VAUGHAN AND THE REGION OF YORK - JOINT PARTNERSHIP PROJECT SENIORS APARTMENTS AND SENIORS ACTIVE LIVING CENTRE MIXED USE BUILDING**

The Commissioner of Community Services, in consultation with the City Manager, the Commissioner of Legal and Administrative Services, and the Commissioner of Finance & Corporate Services recommends:

1. Council provides direction on additional funding in the amount of \$760,000.00, with the source of funding for the estimated total construction cost of the 10,097 square feet be \$684,000.00 from the Recreation Development Charge and \$76,000.00 from Taxation and that the Development Charge Background Study be amended accordingly with the next update; and,
2. Council provides direction on York Region's request for wavier of Cash-in-Lieu of Parkland for this development.

#### **Purpose**

The purpose of this report is to obtain Council direction regarding additional funding related to the estimated construction costs of the shared joint development between the City of Vaughan and the Region of York of a combined senior's active living center and senior citizens' apartments on a City of Vaughan owned site on Blue Willow Drive in the City of Vaughan.

#### **Background - Analysis and Options**

On May 30, 2001, Council directed that staff develop and negotiate a partnership arrangement with the Region of York for the development of a single structure incorporating a senior's active living centre and a residence and on an appropriately zoned, City owned site near Highway 7 and Weston Road in Woodbridge.

In June 2002, Regional Council and the City of Vaughan Council gave preliminary approval to the joint development of a combined seniors' active living centre and senior citizens' affordable housing project.

In October 2002, a Memorandum of Understanding outlining the parameters of the agreement between the City of Vaughan and the Region was executed and the City of Vaughan enacted By-Law 175-2002 to execute the Memorandum of Understanding.

In the summer of 2003, the architectural firm of Allen and Sherriff Architects was engaged by the Region of York to design the project. The project concept called for approximately 10,000 square feet on the ground floor of a four-storey building to be designed as a seniors' active living centre. The City of Vaughan is responsible for the capital and operating costs of the seniors' active living centre and plans to directly operate programs from approximately 5,000 square feet of this area and to make the remaining 5,000 square feet available to other users. The three upper stories of the building will accommodate 54 senior citizens' apartments and will be operated by Housing York Inc.

#### **Project Update**

Regional staff and the project architect have participated in two public meetings hosted by the City of Vaughan to obtain community input on the proposed programs and design of this mixed use buildings.

The City of Vaughan and Region staff has completed the drafts of a development agreement and accompanying lease agreements which give effect to the proposed legal structure as accepted in the recommendation in the Regional Council meeting of May 12, 2004. A cost sharing arrangement for the construction of the project has been reached and is acceptable to both parties.

Cost Estimates and Source of Funding

A qualified quantity surveyor, Curran and McCabe Inc., was engaged to provide up-to-date market information on the construction costing of this project. Based on the preliminary drawings prepared by the project architect, the per-square foot cost of construction is estimated at \$157.00 (including a design contingency of 5% and escalation cost of 3%).

The City of Vaughan and Regional staff have been working on the draft Development Agreement which has a schedule that details the cost sharing agreement.

The City of Vaughan and the Region staff support a cost sharing arrangement for the construction of this project on the gross floor area basis that each party will occupy. The quantity surveyor and the architect are also in support of this cost sharing approach.

Based on the review undertaken by the quantity surveyor, the total square footage of the building is 62,733 square feet for an estimated construction cost of \$9,855,000.00. The approximate apportionment of this cost based on the share of square footage is 16% to the City of Vaughan and 84% to the Region of York. (See Table 1 below).

**Table 1**  
Proposed Allocation of Construction Cost

User	Sq. Ft.	% of GFA	Estimated Construction Cost
City of Vaughan	10,097	16%	1,576,000.00
York Region	52,636	84%	8,279,000.00
Total	62,733	100%	9,855,000.00

The quantity surveyor will provide more accurate construction cost estimates when the working drawings and specifications are 80% complete.

As this project moves through the development process, the budget to actual spending will be brought forward to Council in subsequent reports.

Cash-in-Lieu of Parkland

Cash-in-Lieu of Parkland is payable on the residential portion of this development. The Region has requested a waiver of the Cash-in-Lieu payable on the basis that they are delivery agents for Municipal Housing Facilities. The amount payable for the Region's residential portion of this development is approximately \$200,000.00. The City has not waived Cash-in-Lieu in the past. There have been instances where Cash-in-Lieu has been deferred, but subsequently paid. The City has the authority to waive the Cash-in-Lieu for the Region as it would for any non-profit organization. Their alternative suggestion is to pay the Cash-in-Lieu with a condition in their agreement with the City that the money be used for the project. This may not be possible because Council policy and legislation provides that Cash-in-Lieu funds are to be used for the purchase of parkland, and the Planning Act restricts the use of these funds for acquisition of lands or other public recreation purposes. Staff is seeking Council direction regarding the Region's request.

### Funding Shortfall

Council approved \$100,000.00 in the 2001 Capital Budget for the utilization of design consultants in addition to approving an additional \$900,000.00 in the 2002 Capital Budget for the development, design and construction. Vaughan's total cash contribution for this project is \$1,000,000.00. The City has provided 2 acres of land at an estimated value of \$1,300,000.

The additional cost, over and above the \$1,000,000 cost associated with Vaughan's portion of the facility is a further \$759,345.00 based on the following: \$157.00 (square footage cost of construction) x 10,097 (City's total square footage) = \$1,585,229.00 + \$79,262.00 (5% construction contingency) + \$44,854.00 (City's portion of the architects fees) + \$50,000.00 (soft costs such as furniture, phone hookup etc.) = \$1,759,345.00

Staff is requesting that Council provide direction regarding the \$759,345.00 and determines the source of funding for the estimated total construction cost of the 10,097 square feet for the Seniors Active Living Centre, if a credit for the land is not to be taken into consideration.

Since the commencement of the project, the Region has consistently maintained the position that the value of the land was not to be included for the purposes of capital or operating cost allocation. Land is discussed in Sections 3. (d) and Section 4 of the attached Memorandum of Understanding.

### Two Stage Construction Procurement Process

The Region of York proposes a two-stage construction tender process. Stage 1 includes the issuance of a Request for Qualification to pre-qualify general contractors interested in tendering for this mixed use building. Submissions will be evaluated based on pre-set criteria that will include previous performance in work of similar scope, size, scheduling, project management, workmanship, and final completion, correction of deficiencies and health and safety.

Staff will report back to Council on the results of the Region's Request for Qualification and the award of tenders.

This procurement process will be conducted by the Region's Supplies and Services Department in conjunction with Community Services and Housing and Property Services staff and a representative from the Ministry of Municipal Affairs and Housing, (as required by the CRHP).

It is a pre-condition of the tendering of the construction project that the parties execute the development agreement, and that Council for both the City of Vaughan and the Region grant approval of the specifications and drawings and their respective capital and operating budgets for this project.

### Relationship to Vaughan Vision 2007

This report is consistent with the priorities set out in Vaughan Vision 2007, 1.3., Provide effective and efficient delivery of services.

This report recommends a change from the priorities previously set by Council and the necessary resources have not been allocated and approved.

## **Conclusion**

Council direction is being sought regarding additional funds in the amount of \$760,000.00 for the estimated construction costs of the City of Vaughan seniors active living centre component related to the shared joint development between the Region of York and the City of Vaughan.

The shared joint development between the City of Vaughan and the Region of York of a combined and senior's active living centre and senior citizen's apartments will provide a unique opportunity to develop much needed affordable rental housing for senior citizens as well as provide social-recreational space within the City of Vaughan.

## **Attachments**

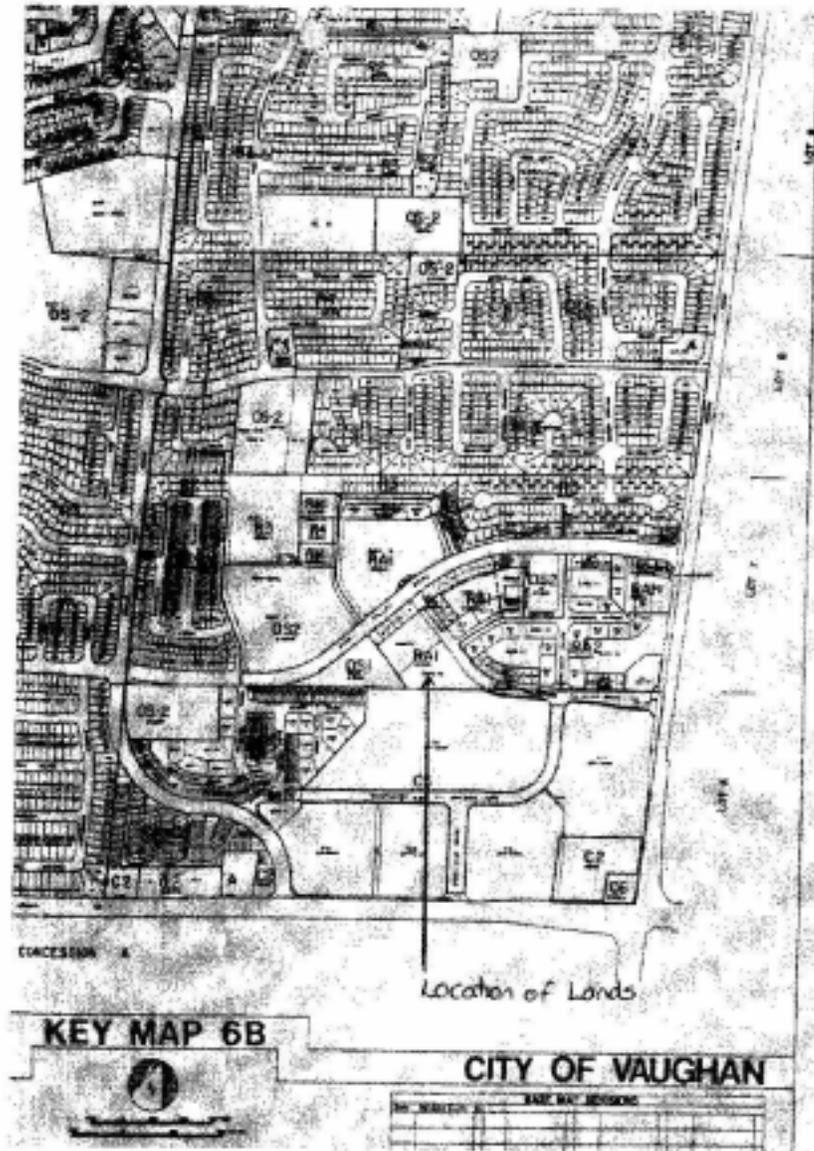
1. Location Map
2. Memorandum of Understanding

## **Report Prepared By**

Lynne A. Bonneville  
Administrative Manager  
Community Services, Ext. 8296

Respectfully submitted,

Marlon Kallideen  
Commissioner of Community Services



**Memorandum of Understanding**

Between:

**The Regional Municipality of York**

(hereinafter referred to as "York Region")

OF THE FIRST PART;

-and-

**The Corporation of the City of Vaughan**

(hereinafter referred to as "Vaughan")

OF THE SECOND PART;

**WHEREAS** York Region and Vaughan have through resolution of their respective municipal councils each expressed a desire and intention to jointly participate in the development and construction of a mixed use project in the City of Vaughan consisting of a seniors active living centre which integrates various regional and/or local health care services and seniors apartment residence;

**AND WHEREAS** York Region and Vaughan have been authorized by their respective councils to enter into a memorandum of understanding setting out the terms upon which they intend to proceed with the development, construction and operation of the project;

**AND WHEREAS** York Region and Vaughan have agreed to proceed with the development and construction of the project in accordance with the terms of this Memorandum of Understanding and intend to enter into further legal agreements to document their specific intentions, rights and obligations.

**NOW THEREFORE WITNESSETH** in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

**Description of the Project**

1. Vaughan and York Region agree to develop and construct a mixed use project (hereinafter referred to as the "Project") in the City of Vaughan upon those lands and premises located on Blue Willow Drive and legally described as Block 68, Plan 65M-3218 (the "Land"). The Project will consist of one joint use building, including related and/or shared facilities, amenity space and service areas, comprised of (a) a senior citizens active living centre which incorporates various regional and/or local health care or social/recreational services to be operated by Vaughan and/or other governmental health care agencies (hereinafter referred to as the "seniors active living centre") being

approximately ten thousand (10,000) square feet of usable space, and (b) a seniors apartment residence to be exclusively operated by York Region (the "seniors apartment") being approximately forty-five to fifty-five thousand (45,000-55,000) square feet of usable space.

2. Attached hereto as Schedule "A" is an initial Milestone/Work Timetable that set out a number of the proposed milestones for the Project that the parties are attempting to achieve (hereinafter referred to as the "Timetable"). The parties agree to review and update the Timetable as necessary from time to time and in accordance with the Timetable. In the event that either party is unable to achieve a particular milestone in accordance with the Timetable, it shall notify the other party in writing of its inability to do so and the parties shall amend the Timetable, as necessary to reflect such change in circumstances.

3. While it is intended that the Project will be developed and constructed jointly by and for the benefit of York Region and Vaughan, the parties acknowledge and agree to the following:

- (a) York Region will pay all costs related to the development, construction and operation of the seniors apartment;
- (b) Vaughan will in conjunction with other third party users pay all costs related to the development, construction and operation of the seniors active living centre;
- (c) The responsibility for certain capital and operating costs for the Project will be incurred for the benefit of both portions of the Project and allocated by the parties and divided pro rata, where appropriate, based on a formula agreed to by the parties and the input and advice from a quantity surveyor retained for the Project. The parties shall ensure that the formula agreed to shall result in an allocation of costs on a fair and equitable basis so that each party is responsible for the costs related to its portion of the Project.
- (d) The parties hereto acknowledge that the value of the Land contributed by Vaughan to the Project shall be recognized for the purposes of capital and/or operating cost allocation, in proportions and amounts to be agreed upon by the parties.

#### **Land Contribution and Security of Tenure**

4. Vaughan shall contribute the Land for the Project at a nominal cost, being Two (\$2.00) Dollars or such other similar nominal amount set by Vaughan. A copy of the plan of survey for the Land is attached to this Memorandum of Understanding for reference. The parties will agree upon a legal co-ownership or co-tenancy structure in accordance with the Timetable that recognizes and respects each party's intention to continually operate and control their portion of the Project. The parties agree that in determining an appropriate ownership structure, they shall consider and review such options that are consistent with the foregoing principles.

5. Each party shall contribute such funds as are necessary for the development, construction and operation of their portion of the Project and in this regard, shall seek such approvals from time to time as necessary to secure such funds.

#### **Co-existence of the Complementary Uses**

6. The parties shall cause the Project to be designed in a complementary manner that promotes a cost efficient and operationally efficient building and facilities and that both recognizes and respects the different uses of the Project in a complimentary manner. In addition, the parties shall ensure that the Project design is sensitive to necessary and desired lines of security and autonomy for each proposed use. The parties shall ensure that the project divisions and proposed uses will be clearly demarcated on design and construction documents to be produced by the project architect.

7. The parties acknowledge that the Project design will provide for necessary and mutually beneficial joint use areas, rights of way, and other joint facilities to improve overall use and operation of the Project. The parties acknowledge that it will be necessary to enter into a shared facilities agreement which details the obligations and responsibilities of the parties for the shared services, areas and utilities, including the equitable sharing of costs by the parties.

#### **Development and Construction Process**

8. The parties agree to participate in the development and construction of the Project as follows:

- (a) York Region shall manage the development and construction process for the entire Project and in that regard, act as project manager. York Region's services shall include, but not be limited to tendering for services and construction, selecting, directing and instructing the prime consultant, being the project architect, the general contractor, and other necessary project consultants and service providers. York Region shall proceed with the steps detailed in the Timetable. Vaughan shall indemnify and save harmless York Region for its pro rata share of all costs and obligations arising from or in connection with its role as project manager, save and except for those incurred as a result of the negligent acts or omissions of York Region or those for whom it is in law responsible;
- (b) York Region shall prepare preliminary Project development and construction budget estimates for review and approval by York Region and Vaughan. The budget estimates shall be updated as necessary from time to time to keep both parties apprised of new budgeting information in respect of the Project;
- (c) York Region and Vaughan shall ensure all necessary municipal and other governmental approvals are provided to enable the Project to proceed

expeditiously in accordance with the Timetable, as amended from time to time by York Region (and approved by Vaughan);

- (d) The parties shall both individually and jointly, where appropriate, explore funding availability, and where appropriate promptly apply for funding for the benefit of the Project;
- (e) The parties shall ensure all necessary funding applications are consistent with York Region and Vaughan policies;
- (f) The parties shall promptly analyze their respective financing options, capital and operating costs and proposed budget estimates and keep the other party updated concerning any issues incidental thereto;
- (g) The parties shall provide the support necessary to complete and submit all development and funding applications for the Project and obtain all consents and approvals incidental thereto.

#### **Project Costs/Financing**

9. Each party agrees to ensure that as follows:

(a) York Region will ensure:

- (i) capital and operating funds are sufficient to build and operate the seniors apartment residence. It is acknowledged that operating costs shall be the responsibility of the service provider utilizing the particular space in the Project; and
- (ii) necessary council approvals are requested in a timely manner to give effect to the approvals, including financing necessary for the Project.

(b) Vaughan will ensure:

- (i) capital and operating funds are sufficient to build and operate the seniors active living centre. It is acknowledged that operating costs shall be the responsibility of the service provider utilizing the particular space in the Project;
- (ii) necessary council approvals are requested in a timely manner to give effect to the approvals, including financing necessary for the Project. Vaughan acknowledges that it has approved a One Hundred Thousand Dollar (\$100,000.00) contribution towards the cost of design consultants for the Project and an additional Nine Hundred Thousand Dollars (\$900,000.00) as approved in the 2002 Capital Budget in February, 2002

to be applied towards the development, design and construction of the Project.

- (c) Both parties shall confirm in writing the extent of their financial commitments for the Project in accordance with the Timetable, as amended and updated from time to time by York Region.

#### **Dispute Resolution**

11. Should any dispute, difference or question arise among the parties hereto touching the obligations of either party then such dispute shall be resolved through mediation and if not resolved through mediation, determined by arbitration in accordance with the Arbitrations Act (Ontario). The parties shall ensure that such mediation or arbitration proceeds in a timely manner so as to ensure that the Project Timetable as agreed to by the parties is adhered to as closely as reasonably possible in the circumstances.

#### **Miscellaneous**

12. The parties acknowledge that it is their mutual intention to enter into further legal agreements between them to further detail the terms and conditions upon which they intend to address specific issues, the obligations between the parties and the responsibilities of the parties to one another. The parties agree that the agreements as aforesaid shall be consistent with the terms and conditions of this Memorandum of Understanding.
13. Once the parties have reviewed and approved the final budget estimates for the Project and directed the Project architect to commence preparation of final working drawings, neither party shall be entitled to withdraw its commitment to the Project and shall be obliged to proceed with its obligations contemplated herein and further documented in any other agreement between the parties. Until that time, the parties acknowledge that either may withdraw its commitment to proceed with the Project in the event that the Project milestones are not achieved in accordance with the Timetable, as amended from time to time, by notice in writing to the other party, provided that each party shall continue to be obliged to pay its pro rata share of all costs and expenses incurred to the date of withdraw. This provision shall survive the termination of this Agreement.
14. This Agreement shall be deemed to have been made in and be governed in accordance with the laws of the Province of Ontario.
15. This Agreement shall enure to the benefit of and shall be binding upon the respective successors and assigns of the parties hereto, but shall not be assignable except as herein expressly provided.

16. The parties hereto shall and will sign such further and other papers and documents, cause such meetings to be held, resolutions passed and by-laws enacted, do and cause to be done and performed such further and other acts or things as may be necessary or desirable from time to time both before and after the closing, in order to give full effect to this Agreement and each and every part hereof.
17. Nothing herein contained shall construe the parties to be joint venture partners or partners.
18. Notwithstanding anything herein contained, the parties hereto agree that this Memorandum of understanding is an expression of their current intention to jointly participate in the development and construction of a mixed use project (as previously described herein), and is non-binding on the respective parties. In the event of a dispute related to any provision of this Memorandum of Understanding, either party may terminate this Memorandum of Understanding by notice in writing to the other, subject to Section 13 herein which shall survive the termination of this Memorandum of Understanding.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the 31<sup>st</sup> day of July, 2002.

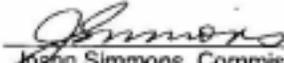
**SIGNED, SEALED AND DELIVERED**

  
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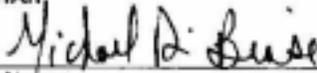


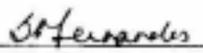
Authorized Report of the Community Services and Housing Committee and adopted by Regional Council at its meeting held on the 27<sup>th</sup> day of June, 2002.

**THE REGIONAL MUNICIPALITY OF YORK**

Per:   
John Simmons, Commissioner of Community Services and Housing

**THE CORPORATION OF THE CITY OF VAUGHAN**

Per:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per:   
Name: SYBIL FERNANDES  
Title: ACTING DEPUTY CLERK

## Schedule "A"

### Initial Milestones/Work Timetable

The following is a list of the preliminary milestones and work timetable to be followed by the parties. It is contemplated that the items will be addressed by the parties in the order listed and will this Schedule will be modified as necessary from time to time and ultimately, incorporated into the final legal documents signed by the parties.

#### 1. Memorandum of Understanding/Tendering for Prime Architect (June 2002)

- Present Regional Council with and seek direction concerning:
  - preliminary funding, financing and budgeting options, including information concerning sources of funding
  - preliminary capital and operating cost estimates.
- Seek Regional and Vaughan Council approval to proceed with the following steps:
  - Signing of the Memorandum of Understanding negotiated by York Region and Vaughan
  - Hiring of a Project architect (being the prime consultant for the Project). The approval would include, preparing and issuing a request for proposal (RFP) for the architect, receiving and reviewing the proposals, awarding the services to the successful bidder and entering into a contract for services with the Project architect. The approval should also include approval to instruct the Project architect to proceed with the preparation of preliminary development drawings. The parties are to ensure that the hiring process is consistent with York Region and Vaughan purchasing practices.
  - Negotiation and completion of any and all necessary legal documents arising from the Memorandum of Understanding.

#### 2. Design Approval and Budget/Financing (October/November 2002)

- Present Council with and seek direction concerning:
  - Updated funding, financing and budgeting options, including updated information concerning sources of funding
  - Updated capital and operating cost estimates.

- Seek Council approval of the following:
  - preliminary project design
- Seek Council approval to proceed with the following steps:
  - Preparation of working drawings.
- 3. Final Project and Budget Approval, Legal Agreements and Award of Construction Contract (January 2003)**
  - Seek Council approval of the following:
    - Final project design and capital and operating budget
    - Final project funding, financing and budgeting plan, and development agreement and/or shared facilities use agreements including final identification and finalization of funding sources
  - Seek Council approval to proceed with the following steps:
    - Tendering for construction and awarding of construction contract, including entering into of construction agreement, subject to York Region purchasing By-laws and legal branch approvals of construction agreement.
    - Completion of any outstanding legal agreements, including finalization of development agreement prior to award of construction contract.
- 4. Construction Phase (Spring 2003)**
  - Commencement of Construction
  - York Region and/or Vaughan to manage construction progress
- 5. Construction Completion**
  - address deficiencies
- 6. Project Occupancy**