



IN CAMERA

CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: December 5, 2007
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Meeting Date: December 13, 2007

TO: Vancouver City Council

FROM: Project Manager for the Southeast False Creek ("SEFC") Development and the Director of Financial Planning & Treasury, in consultation with the Director of the Housing Centre

SUBJECT: Approval for Construction Agreements on the City's Parcels in Southeast False Creek Area 2A (Parcels 2, 5, 9 and 11)

IN CAMERA RATIONALE

This report is recommended for consideration by Council in the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter*: (k) negotiations and related discussions respecting the proposed provision of an activity, work or facility that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the city if they were held in public.

RECOMMENDATIONS

- A. *THAT Council approve an interim financing plan for the construction of the 250 units of affordable housing in three separate buildings on Parcels 2, 5 and 9 in SEFC Area 2A of up to \$63 million (bringing the total funding available for completion of these affordable housing buildings up to \$95 million); financing to be provided from the Capital Financing Fund ("CFF") with the expectation of recovery from BC Housing.*
- B. *THAT the City Manager be authorized to enter into legal agreements with Millennium Southeast False Creek Properties Ltd. ("Millennium") for the construction of the affordable housing at an estimated cost of up to \$95 million; source of funding to be:*

- i. \$32 million approved by Council as the City capital contribution to achieving the 250 units of affordable housing, and*
 - ii. up to \$63 million from the interim funding provided by Recommendation A.*

- C. THAT the Project Manager for the SEFC Development and the Director of the Housing Centre report back for approval to proceed once the necessary agreements have been negotiated with BC Housing, to include selection of the non-profit housing providers, BC Housing financing and the affordability achievable in the 250 units of affordable housing in SEFC Area 2A.*

- D. THAT Council approve an increase in the budget for the civic centre in SEFC Area 2A, Parcel 11 by \$1.5 million (to \$30.5 million); source of funding to be the Property Endowment Fund ("PEF") (\$1,004,000); Childcare Development Cost Levies ("DCLs") (\$291,700) and additional financing from the CFF (\$204,300).*

- E. THAT the City Manager be authorized to enter into legal agreements with Millennium for the construction of the civic centre, at a cost of up to \$30.5 million; source of funding to be the capital budget previously approved by Council and the additional funding provided by Recommendation D.*

- F. THAT the City Manager be authorized to execute and deliver on behalf of the City all legal documents required to implement Recommendations B and E;*

THAT all such legal documents be on terms and conditions satisfactory to the City Manager and the Director of Legal Services; and

THAT no legal rights or obligations will be created or arise by Council's adoption of Recommendations B and E unless and until such legal documents are executed and delivered by the City Manager.

CITY MANAGER'S COMMENTS

The recommendations in this report are critical to ensuring that the City's buildings in SEFC Area 2A are completed in time for VANOC's use for the 2010 Olympic and Paralympic Winter Games (the "Exclusive Use Period"), which begins in November 2009. The construction agreements are a requirement of the Lease Agreement and Development Agreement with Millennium and establish a contractual relationship for construction of the City's approved designs for these buildings. The development schedule for the City's buildings requires that the construction agreements be executed now so that payments to Millennium can continue as these buildings proceed above grade.

The report also provides an update on the costs of the projects and recommends funding sources to match the increases. All of the City's buildings in SEFC Area 2A have experienced cost escalation over the last two years, in part because the earlier estimates were based on conceptual designs and in part because of the cost escalation in construction since they were

prepared. The affordable housing is now estimated to cost in the range of \$95 million - 50% over the best estimates used in 2005. This will impact on the level of affordability that can be attained under the existing funding plan. The Director of the Housing Centre and the Project Manager for the SEFC Development will report in public on this issue in the first quarter of 2008.

The interim financing recommended does not change the expectation that BC Housing will agree to finance the costs above the City's current equity contribution (\$45 million for land and \$32 million for construction). However, in order for construction to continue, the City must provide interim financing. This does present some risk in that the City is proceeding without a final commitment from BC Housing, however, BC Housing has been involved in all of the design and costing discussions to date and has not indicated concerns with proceeding in this fashion. Should that arrangement not be completed as contemplated, the City will have a number of options for City Council to consider, from providing additional equity to converting some or all of the units to market units.

The cost of the civic complex has also increased by 50% and that will have an impact on the PEF *pro forma* which is carrying the cost of the community centre component and on the DCL funding available to provide the balance of the community amenity package in the SEFC neighbourhood.

It should be noted that the risk of constructing the affordable housing buildings and community centre in time for the Exclusive Use Period is not a new risk to the City, nor has it changed from the City's original commitment to deliver Area 2A in time for use as the Olympic Village. What remains to be decided is the level of affordability for the affordable housing buildings and the final form of financing with BC Housing for these buildings, both of which can occur after execution of the construction agreements. As the City must ensure that these buildings are completed by November 2009, the City Manager RECOMMENDS approval of A, B, C, D, E and F.

COUNCIL POLICY

Council approves funding for capital projects.

Council approval is required to award contracts that exceed \$300,000.

PURPOSE

The purpose of this report is to seek additional funding for the construction of the City's buildings in SEFC Area 2A and the authority for the City Manager to enter into construction agreements with Millennium to:

- construct 250 units of affordable housing in three buildings on Parcels 2, 5 and 9; and,
- construct the civic centre on Parcel 11, which will include a community centre, childcare facility, non-motorized boating centre and commercial/restaurant space.

BACKGROUND

On August 31, 2006, the City and Millennium entered into the Lease Agreement, including the Development Agreement that sets out the terms and conditions under which Millennium will design and construct the buildings in SEFC Area 2A.

The Development Agreement requires that the City and Millennium enter into construction agreements to allow for the construction of and payment for the City's buildings, including the three affordable housing buildings and the civic centre (including the community centre, non-motorized boating centre, childcare facility and commercial/restaurant space), within SEFC Area 2A. It was expected that the construction agreements would be entered on the completion and approval of the building designs, the issuance of the building permits and the detailed costing of the buildings.

As the timeline for completing the development on SEFC Area 2A required construction on the site to begin before the designs for the City's buildings were complete and the costing brought to a sufficient level of detail to provide certainty around the value of those contracts, Council agreed to an amendment of the Development Agreement on April 26, 2007. This amendment provided for a cost sharing arrangement between the City and Millennium for the excavation, backfill and construction of the foundation-to-grade work and Council provided authority for the Project Manager for the SEFC Development to make progress payments for work to grade.

On November 2, 2006, Council approved the following recommendation related to the development of the affordable housing on Parcels 2, 5 and 9:

- A. *THAT Council allocate VANOC's \$30,000,000 contribution for the Olympic Village, plus the estimated \$2,000,000 for replacement housing from the Development Cost Levies generated by Sub-Area 2A of Southeast False Creek (SEFC) as a capital contribution to the 250 units of Affordable Housing to be developed in the Olympic Village, and instruct the Director of the Housing Centre and the Project Manager of the SEFC Project Office to report back to Council on the level of affordability that can be achieved once the costs to build the Affordable Housing have been determined;*

On June 26, 2007, Council authorized the City Manager and the Project Manager for the SEFC Development to proceed with the design, tendering and construction of the community centre on Parcel 11:

- A. *THAT Council authorize the City Manager and Project Manager, Southeast False Creek and Olympic Village Development to proceed with design, tendering and construction of the new civic facility on Parcel 11 of Sub Area 2A, generally as outlined in this report, at a cost estimated to be \$29.0 million; source of funding to be:*
 - *\$19.41 million from the Property Endowment Fund as a community amenity contribution related to its development of the City lands;*
 - *\$5.64 million for the childcare component from city-wide and area specific development cost levies as specified in the SEFC Financial Plan and Strategy;*
 - *\$3.95 million as interim financing from the Capital Financing Fund to be recovered through the market lease of the proposed commercial/restaurant space following the 2010 Games.*

DISCUSSION

Construction in SEFC Area 2A is proceeding quickly in order to meet the commitment to complete the buildings for the Exclusive Use Period by November 2009. For all parcels, excavation and construction of foundations and underground parking platforms have proceeded in advance of the completion of final building designs. The following summarizes the status of construction to date:

- Excavation is complete on all parcels.
- Foundation work is underway on all parcels except Parcels 5 and 11, where work is expected to begin shortly.
- Construction of the underground parking platform on Parcel 2 is completed to grade and work on the residential buildings has begun.
- Construction of underground parking has also begun on Parcel 9.

The City's share of the costs for this work - related to the affordable housing buildings on Parcels 2, 5 and 9 and the civic centre on Parcel 11 - has been paid to Millennium as construction progress draws under the authorities approved by Council on April 26, 2007 (that is, for work-to-grade). However, construction has now progressed on Parcel 2 to the point where the City's buildings are being constructed above grade. A similar situation will arise shortly on Parcel 9 and construction of the civic centre on Parcel 11 is also scheduled to begin soon. As a result, the City has begun to receive invoices from Millennium for this work that cannot be paid because they exceed current authorities, and construction agreements have not been settled for the City's approved designs for the City's buildings in SEFC Area 2A.

The City has advised Millennium that in order for the payments to continue, the construction agreements contemplated in the Lease Agreement must be put in place for Parcels 2, 5, 9 and 11. Council authority is sought in this report for the City Manager to enter into these agreements thereby permitting construction to continue on the City's buildings.

1. The Construction Agreements

The intent of the construction agreements is to formalize the client - contractor relationship between the City and Millennium for the construction of the City's buildings in SEFC Area 2A based upon the City's approved designs for these buildings. Ideally, the construction agreements should specify the lump sum fixed price associated with completing each of the City's buildings. However, the reality of the SEFC Area 2A project schedule is such that construction had to commence before Millennium (as a contractor who is building the City's buildings in SEFC Area 2A on a "cost plus negotiated fee" basis in accordance with the Lease Agreement) could fully tender all the sub-trade work for these buildings. As a result, the construction agreements will set out cash allowances, based on estimates provided by Millennium and its contractors and the City's Quantity Surveyor ("QS"), for the sub-trade work that has not been tendered to the date of the execution of such agreements. These cash allowances will be changed to a fixed lump sum amount by change order upon the award of contracts for such sub-trade work.

City staff will continue to work closely with Millennium on the tendering of all sub-trade work for the City's buildings. The cost estimates provided in this report for the City's

buildings were established using available fixed prices and the estimated cash allowances for the balance until fixed through the tendering process.

2. Current Cost Estimates

The current cost estimates for the affordable housing sites are set out in Table 1 below:

Table 1: Affordable Housing Cost Estimates

	Excavation	Construction	Consultant + Management Fee	TOTAL
Parcel 2	\$1,825,000	\$26,103,460	\$2,088,280	\$30,016,740
Parcel 5	\$1,190,000	\$36,157,500	\$2,892,600	\$40,240,100
Parcel 9	\$510,000	\$15,639,635	\$1,251,170	\$17,400,806
Affordable Housing	\$3,525,000	\$77,900,595	\$6,232,050	\$87,657,646

It should be noted that the estimate for Parcel 5 is based on very early work by the City's QS and will require additional tenders to be completed before it can be considered reliable. As a result, Recommendation A requests approval to commit up to \$95 million to complete construction, although the actual costs may be below this limit.

The City has allocated \$32,000,000 (plus free sites) for the affordable housing projects. Financing for the balance of the capital cost is to be provided by BC Housing by way of leasehold mortgages. BC Housing has agreed in principle to provide the financing subject to approval of capital and operating budgets and the ability of the projects to service the leasehold mortgages. BC Housing has been assisting the City with the review of the designs and specifications for the affordable housing, and has been monitoring the progress of the construction.

The current estimate of the total cost of the affordable housing projects is 50% higher than the original estimates of early 2005 (\$64 million). This will have an impact on the affordability that can be achieved and additional equity may be required to achieve Council targets for affordability. The Director of the Housing Centre and the Project Manager for the SEFC Development will report to Council in early 2008 once the capital and operating budgets are finalized, and BC Housing's financing commitment secured. In the meantime, construction must continue in order to complete these buildings by November 2009 and financing needs to be in place. The Director of Finance is recommending that this financing - to a maximum of \$63 million in addition to the existing funding - be provided from the Capital Financing Fund on an interim basis. As with all internal financing, terms for this financing will be those acceptable to the Director of Finance.

The current cost estimates for the civic centre on Parcel 11 is set out in Table 2 below:

Table 2: Civic Centre Cost Estimates

	Excavation	Construction	Consultant + Management Fee	TOTAL
Parcel 11	\$1,342,175	\$26,309,040	\$2,526,180	\$30,177,395

The civic centre project has gone through two rounds of value engineering in order to keep the cost as close as possible to the \$29 million budget level approved by Council in June 2007. The current estimate of \$30.5 million is comprised of approximately 50% fixed costs and 50% cash allowances based on QS estimates and is as accurate as possible at this time. Recommendation E requests approval to commit up to that amount in the construction agreement for this building. In order to ensure funding at that level is available, Council approval is sought to increase the budget amount by \$1.5 million to provide the necessary funding with the increase to be allocated based on the original cost allocation. Final allocation of costs will be reported to Council prior to completion of this building.

FINANCIAL IMPLICATIONS

The recommendations in this report will ensure financing is in place to construct the 250 units of affordable housing and the civic centre in SEFC Area 2A. Council has approved some funding for these projects, however additional commitments are required as indicated in the following table:

Component	Approved Funding		Additional Funding Required	
Affordable Housing	\$2.0 million	DCLs	\$63.0 million	Interim from the CFF to be offset by BC Housing mortgages
	\$30.0 million	VANOC Contribution		
Civic Centre				
Community Centre	\$19.41 million	PEF (SEFC Development)	\$1.0 million	PEF (SEFC Development)
Childcare Facility	\$5.64 million	City wide and Area Specific DCLs	\$0.3 million	City wide and Area Specific DCLs
Commercial Space	\$3.95 million	CFF Financing to be offset by commercial lease	\$0.2 million	CFF Financing to be offset by commercial lease

The additional budget for the civic centre will be funded from the same sources as the original budget approved by Council: 67% from the PEF (SEFC Development); 19.5% from city wide and area specific DCLs for the childcare facility; and 13.5% as financing from the CFF for

the commercial space. The CFF financing will be repaid from a future commercial lease on this space.

Council has already approved an allocation of \$32 million for construction of the affordable housing units. However, in the absence of funding from BC Housing, interim financing will be required to ensure completion of these affordable housing buildings by November 2009. It is proposed that this be provided from the CFF on terms acceptable to the Director of Finance. Staff believe that the risks to the City of providing this financing are minimal because, should the financial package for the units not be acceptable, the 250 units have market value that is higher than the costs identified in this report. Should BC Housing provide only partial financing, the City will have a choice to inject additional equity into the affordable housing projects or to allow some rents to rise or to convert some of the units to market to recoup the financing provided.

CONCLUSION

In order for the City's buildings on Parcel 2, 5, 9 and 11 to be completed in time for the Exclusive Use Period, sufficient funding is required to be in place now and the City will need to execute the required construction agreements for each of the three affordable housing buildings and the civic centre with Millennium. Therefore, Council is asked to approve the financing structure noted herein for the construction of the City's buildings in SEFC Area 2A, and authorize the City Manager to enter into the required construction agreements for these buildings with Millennium.

* * * * *

1. Approval for Construction Agreements on the City's Parcels in Southeast False Creek Area 2A (Parcels 2, 5, 9 and 11)

(Councillors Chow and Ladner arrived during the discussion on this item.)

Ken Bayne, Director, Financial Planning & Treasury, reviewed the finance structure proposed for the construction of the City's buildings in Southeast False Creek Area 2A.

MOVED by Councillor Deal

- A. THAT Council approve an interim financing plan for the construction of the 250 units of affordable housing in three separate buildings on Parcels 2, 5 and 9 in SEFC Area 2A of up to \$63 million (bringing the total funding available for completion of these affordable housing buildings up to \$95 million); financing to be provided from the Capital Financing Fund ("CFF") with the expectation of recovery from BC Housing.
- B. THAT the City Manager be authorized to enter into legal agreements with Millennium Southeast False Creek Properties Ltd. ("Millennium") for the construction of the affordable housing at an estimated cost of up to \$95 million; source of funding to be:
 - i. \$32 million approved by Council as the City capital contribution to achieving the 250 units of affordable housing, and
 - ii. up to \$63 million from the interim funding provided by A above.
- C. THAT the Project Manager for the SEFC Development and the Director of the Housing Centre report back for approval to proceed once the necessary agreements have been negotiated with BC Housing, to include selection of the non-profit housing providers, BC Housing financing and the affordability achievable in the 250 units of affordable housing in SEFC Area 2A.
- D. THAT Council approve an increase in the budget for the civic centre in SEFC Area 2A, Parcel 11 by \$1.5 million (to \$30.5 million); source of funding to be the Property Endowment Fund ("PEF") (\$1,004,000); Childcare Development Cost Levies ("DCLs") (\$291,700) and additional financing from the CFF (\$204,300).
- E. THAT the City Manager be authorized to enter into legal agreements with Millennium for the construction of the civic centre, at a cost of up to \$30.5 million; source of funding to be the capital budget previously approved by Council and the additional funding provided by D above.
- F. THAT the City Manager be authorized to execute and deliver on behalf of the City all legal documents required to implement s B and E above;

FURTHER THAT all such legal documents be on terms and conditions satisfactory to the City Manager and the Director of Legal Services; AND FURTHER THAT no legal rights or obligations will be created or arise by Council's adoption of B and E above unless and until such legal documents are executed and delivered by the City Manager.

CARRIED UNANIMOUSLY
(Councillors Louie and Stevenson absent for the vote)