



Report to: Development Services Committee

Report Date: June 19, 2012

SUBJECT: Design, Construction and Financing of Three Strata Parks at the World-On-Yonge Site by Liberty Development Corporation (for and on behalf of 1691126 Ontario Inc.)

PREPARED BY: Linda Irvine, Manager Parks and Open Space Development, Ext. 2120

RECOMMENDATION:

- 1) THAT the report dated June 19, 2012 to Development Services Committee, entitled "Design, Construction and Financing of Three Strata Parks at the World-On-Yonge Site by Liberty Development Corporation (for and on behalf of 1691126 Ontario Inc.)" be received;
- 2) AND THAT Council approve the request by 1691126 Ontario Inc. to finance the cost of design, construction, and contract administration of three public strata parks known as Part of Lot 18, Register's Compiled Plan 10327, designated as Parts 14, 18 and 20, on an unregistered reference plan prepared by Schaeffer Dzaldov Bennett, Ltd. Job No. 06-156-02C, subject to the following conditions:
 - A. That 1691126 Ontario Inc. finance the cost of the design, construction, and contract administration of this park to a minimum value of \$1,500,000 per acre based on 1.386 acres / 0.56 ha of parks which totals approximately \$2,079,000 inclusive of all applicable taxes but exclusive of HST;
 - B. That, subject to compliance with these terms and conditions, the Town of Markham reimburse 1691126 Ontario Inc., up to a maximum of \$2,079,000, plus HST, towards this project from development charges for park development under the understanding that 1691126 Ontario Inc. may contribute additional funds above this amount which will not be reimbursable by the Town, towards the development of these parks;
 - C. That subsequent to collection of sufficient Development Charges for park development, the Town shall reimburse 1691126 Ontario Inc., for invoices paid for approved costs associated with the design, construction, and contract administration, for development of each park. No interest on such invoices shall be payable by the Town. Reimbursement terms are as follows:
 - a. 1691126 Ontario Inc. may only invoice the Town for 80% of approved costs for each park provided that:
 - i. at least 45 days from the date of publication of Substantial Performance has transpired;
 - ii. proof of publication has been submitted with the invoice;
 - iii. no liens have been registered in regard to this contract;

- iv. the constructed work has reached Total Completion to the Town's satisfaction after which the two year warranty period shall begin;
 - v. the landscape architect has issued to the Town a Total Completion certificate;
 - vi. and further, that the strata park lands have been conveyed to the Town in accordance with all of the terms and conditions set out in Section 26, Parkland Conveyance, in the Site Plan Control Agreement, dated January 24, 2011 between 1691126 Ontario Inc. and the Town.
 - b. the remaining 20% of Town approved costs for each park shall be retained by the Town for a minimum of two years from Total Completion and shall be paid to 1691126 Ontario Inc. upon 1691126 Ontario Inc. invoicing the Town for the remaining 20% for each park, provided the following has occurred in the order listed here:
 - i. two years has passed from the date of Total Completion;
 - ii. that the two year warranty inspection has occurred with the Town;
 - iii. that all noted deficiencies at the two year warranty inspection have been completed to the Town's satisfaction to the point of total performance;
 - iv. that Final Acceptance has been granted by the Town;
 - v. that the landscape architect has issued a certificate certifying the warranty period has expired and further that noted deficiencies have been completed in general conformance to the plans and specifications;
 - vi. that any liens registered in regard to the contract have been released and/or paid by 1691126 Ontario Inc.;
 - vii. that the two year maintenance obligations had been performed during the warranty period, failing which, the Town shall use the remaining funds at its sole discretion to compensate for the unfulfilled obligations.
 - c. or alternatively, 1691126 Ontario Inc. may invoice the Town for 100% of approved costs two years after the date of Total Completion for each park provided items b, i through vii, as listed above, have occurred to the Town's satisfaction.
- D. That Owners/Developers within the World-On-Yonge development, including 1691126 Ontario Inc. not receive any credit towards park development charges and continue to pay the park development charge at the building permit stage for all present and future development phases of this development;
- E. That 1691126 Ontario Inc. hire a landscape architect who is a Full Member of the OALA having custody and use of the Association seal, approved by the

Town, to provide professional design, contract document, and contract administration services, to the satisfaction of the Town as outlined in Appendix 'B';

- F. That 1691126 Ontario Inc. follow the Town's standard park and open space approval process for each park which includes development of several design concepts, holding community input meetings, presentation to selected Standing and Advisory Committees as applicable, as well as review and approval by the Manager of Parks and Open Space Development, Planning and Urban Design Department, in consultation with the Parks Operations Department;
- G. That 1691126 Ontario Inc. tender out the construction of the park works, either separately or collectively, to a minimum of three bidders to the satisfaction of the Town including providing the Town with a copy of all bids submitted within 24 hours of tender close. The successful bidder will be responsible to construct and maintain the park from the time park construction is begun until Final Acceptance by the Town;
- H. That, notwithstanding the requirement noted above in Condition (G), 1691126 Ontario Inc. shall tender and award a maintenance contract for each park to Town standards. The maintenance contract for the park must be tendered and awarded at the same time as the construction contract and cover a minimum period of 2 years detailed maintenance as outlined in Appendix 'C' ("Developer Obligations: Two Year Maintenance Activities") to the Town's satisfaction and that maintenance of the park shall continue until Final Acceptance of the park. Costs for the 2 year (minimum) maintenance contract are the responsibility of 1691126 Ontario Inc. The Town will not reimburse 1691126 Ontario Inc. for costs associated with this additional maintenance obligation for each of the parks;
- I. That these parks be included in the Urban Design, Development Services Commission, Capital Budget submission in 2013 identifying the total budget in the amount of \$2,302,700 which includes the amount to be reimbursed, the HST impact, and the internal charges.

3) And that staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

PURPOSE:

This report seeks approval for 1691126 Ontario Inc. to finance the costs of design, construction, and contract administration associated with the development of three public strata parks known as Part of Lot 18, Register's Compiled Plan 10327, designated as Parts 14, 18 and 20, on an unregistered reference plan prepared by Schaeffer Dzaldov Bennett, Ltd. Job No. 06-156-02C, within the World-On-Yonge Development by Liberty Development Corporation.

BACKGROUND:

World-On-Yonge is a new mixed use development consisting of approximately 1.5 million square feet of development including a 20 storey office / hotel; with 122,000 sq. ft. of office, 87,000 sq. ft. of hotel, a 2 storey 573,000 sq. ft. retail building and four residential condominium high rise towers with approximately 1200 units. This master planned development will be built to LEED Silver standards.

There will be three Town owned strata parks built over the privately owned underground parking garage. These parks will be "urban in character", largely with hard surfaces, planting, seating, shade structures, water features or fountains, and other associated site amenities.

OPTIONS/ DISCUSSION:

In a letter dated March 27, 2012, Mr. Latif Fazel of Liberty Development Corporation requested permission from the Town to allow 1691126 Ontario Inc. to proceed with the design and construction of these parks in advance of the Town's projected schedule. 1691126 Ontario Inc. is motivated to build these parks early for marketing and promotional reasons, as well as to insure that the parks are finished coincident with occupancy of the adjacent commercial and residential units. Staff anticipates that the design of these parks will likely proceed through the summer and fall of 2012, that the requisite community meeting will occur in the winter of 2013, and that the parks will be tendered in the spring to allow for an anticipated summer 2013 construction start. The exact timing of construction, is contingent on the progress of construction for the underground parking garage.

In consideration of this request, this report seeks Council's approval for the early delivery of these parks by 1691126 Ontario Inc. in accordance with the recommendations noted herein. The 5 year park capital program will be adjusted to reflect the early delivery of these parks.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

In the year that these parks are assumed for maintenance by the Town, additional resources may be required in the Parks Operation's budget. Implications to the Operating Non-Life Cycle funding (10% of \$2,079,000) will occur in 2013 when the Capital budget is approved. When designing the parks, staff will consider the long-term maintenance, operational and capital replacement cost implications.

HUMAN RESOURCES CONSIDERATIONS

N/A

ALIGNMENT WITH STRATEGIC PRIORITIES:

This work aligns with the following areas of strategic focus: Growth Management and Parks, Recreation, Culture and Library Master Plan.


BUSINESS UNITS CONSULTED AND AFFECTED:

The Finance Department has been consulted in the development of this report.

RECOMMENDED BY:



Rino Mostacci, MCIP, RPP
Director, Planning and Urban Design



Jim Baird, MCIP, RPP
Commissioner of Development Services

ATTACHMENTS:

Appendix 'A': Letter from Mr. Latif Fazel, Liberty Development Corporation

Appendix 'B': Landscape Architect's Scope of Work

Appendix 'C': Developer Obligations: Two Year Maintenance Activities

Appendix 'D': Location Map –



LIBERTY *for all*

March 27, 2012

Town of Markham
Planning and Urban Design Department
Anthony Roman Centre
101 Town Centre Boulevard
Markham, ON L3R 9W3
Attn: **Linda A. Irvine, OALA, CSLA**
Manager, Parks and Open Space Development

Dear Ms. Irvine:

Re: 7171 Yonge Street
Design and Construction of Public Parks

1691126 Ontario Inc. requests permission from the Town of Markham to up-front the cost of design, construction and contract administration for three public parks known as Parts 14, 18 and 20 on lot 18 Registers Compiled Plan 10327 Town of Markham Regional Municipality of York, as prepared by Schaeffer Dzaldov Bennett Ltd., Ontario Land Surveyors.

Sincerely,
LIBERTY DEVELOPMENT CORPORATION
For and on behalf of 1691126 Ontario Inc.

A handwritten signature in black ink, appearing to read "Latif Fazel", is written over a horizontal line.

Per:
Latif Fazel
I have authority to bind the Corporation

/rm

APPENDIX B: LANDSCAPE ARCHITECT'S SCOPE OF WORK – STRATA PARKS

Landscape architectural services shall include typical full scope of services. The items below are intended to assist the consultant to ensure that, at minimum, the items listed are included in the scope of services provided. This list is not intended to be exhaustive.

PART A: DESIGN SERVICES

1. Undertake data collection and base plan preparation.
2. Hire surveyor under surveyor allowance, and prepare an up to date topographic survey, if necessary.
3. Hire sub-consultants (under the sub-consultant allowance) to include, as required by the design: a mechanical engineer to certify flow rate for purposes of water meter sizing; a structural engineer to certify design of all proposed and as-built structures inclusive of footings to be structurally sound as well as provide BCIN; an electrical engineer to certify electrical work and obtain ESA (Electrical Safety Authority) certificate; a civil engineer to certify the proposed and as-built civil works have been designed and constructed properly, and; an irrigation consultant to design and certify the work has been designed and installed properly and in accordance with the plans. The landscape architect shall include surface grading and drainage as well as sub-drainage where required as part of the full scope of landscape architectural services.
4. Where the park is built partially or fully on top of an underground structure such as a parking garage, include a structural engineer to review and certify the maximum loading that the underground structure can support, including verification that the garage can support all features and aspects of the proposed park design.
5. Include an electrical and civil engineer's recommendation for a heat tracer system, where required, in instances of insufficient frost protection due to the park being constructed over an underground structure.
6. Contact development engineer to obtain composite utility plans (above and below ground) including any easements which may affect the design or installation for inclusion on landscape plans.
7. Undertake detailed analysis of site and context.
8. Undertake schematic design work for review by Town staff.
9. Meet with Town staff as needed to develop a minimum of 2 alternative concepts.
10. Prepare and submit cost estimates complete with signed OALA seal, to ensure design concepts can be built within the allotted budget. Amend plans if required to meet budget.
11. Undertake public consultation meeting with area residents (one evening meeting) including the presentation of the two rendered park concept alternatives. Evening meeting shall include display panel boards (at either 24"x 36" or 36"x 48" sized for future Town storage) as well as prepare a PowerPoint presentation of the boards for the evening meeting.

12. Amend/combine concepts as required, to develop a preferred design concept in preparation for developing working drawing package.
13. Ensure that all park works are located within park property, and that for all park elements on top of underground structures, insure that they are at least 50 mm above the horizontal property line including but not limited to: irrigation systems, water lines, footings, drainage structures and pipes, and plantings.

PART B: WORKING DRAWINGS AND TENDER DOCUMENT SERVICES

1. Prepare working drawing package of the preferred design.
2. Meet with Town staff to refine working drawings as required, until approved by Town.
3. Submit revised cost estimates complete with signed OALA seal, to ensure design concepts can be built within the allotted budget. Amend plans if required to meet budget.
4. Secure all necessary permits and agency approvals for the work as required.
5. Prepare final working drawings, specifications, tender documents, cost estimates and contract documents to Town standards for competitive bidding of the work.
6. Provide the Town with 12 sets of tender documents (specifications and drawings) for tender.
7. Attend bidders meeting and document questions arising from the meeting. Provide answers to the Town for questions arising.
8. Assist the Town in its tendering process and be responsible for technical inquiries and/or clarifications, preparing draft addenda for issue by the Town regarding bid documents requirements.
9. Review bids for accuracy and provide recommendations.

PART C: CONTRACT ADMINISTRATION AND WARRANTY SERVICES

1. Undertake Contract Administration to Final Completion.
2. Arrange and host pre-construction meeting.
3. Undertake periodic construction meetings as required including weekly site meetings during active construction.
4. Prepare and distribute all meeting minutes with contractor.
5. Review project schedule on an ongoing basis and assist the contractor in resolving matters affecting the contractor's schedule.
6. Review contractor's construction layouts, provide recommendations to Town staff and obtain Town approval.
7. Provide recommendations to Town staff and obtain approval from Town for additional work or work deleted from contractor contract. Prepare Change Orders and obtain Town authorized signature. The landscape architect shall provide an ongoing spreadsheet listing all items included for all contemplated changes, all Town agreed to changes, any previously issued change orders, and the remaining funds in the contingency.
8. Provide recommendations to Town staff and obtain approval from Town for additional work or work deleted from contractor contract. Prepare Change Orders once approved and obtain Town authorized signature on all Change Orders. With each contemplated change, the landscape architect shall provide an ongoing

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- spreadsheet showing the impact of the contemplated change on the budget. The spreadsheet shall include all contemplated changes, all Town agreed to changes, any previously issued change orders, and the remaining funds in the contingency.
9. Review shop drawings, contractor requested plant and other substitutions or changes, provide recommendations to Town staff and obtain Town approval prior to directing contractor or proceeding with the works.
 10. Review on-going construction to ensure compliance with the contract drawings and specifications. If construction is not compliant with documents, note deficiencies and discuss with Town for review and direction. Issue instructions to contractor as required.
 11. Visit the site each time the contractor makes a claim for payment to review the work performed. Town's policy does not permit acceptance of 'redlined' invoices. Return invoice to contractor for revision with current date, amount claimed, proper purchase order number, etc if invoiced incorrectly by the contractor.
 12. Provide Progress Payment Certificate to the Town signed with an OALA seal within 10 business days of receipt of an acceptable invoice from the contractor.
 13. Be responsible for keeping track of all dates of each milestone listed herein, and perform on site inspections for same, including a follow-up certificate for each of; substantial performance, total completion/start of warranty (showing anticipated end of warranty), one year warranty, two year warranty, and final completion/end of warranty. Include necessary follow-up inspections to ensure contractor compliance with inspections as required. Perform final certification to the Town by way of a final completion certificate identifying that all the work has been completed in general conformance to the plans and specifications and that the warranty has now ended.
 14. Provide the Town with a maintenance manual after Substantial Performance which includes the following:
 - as-built drawings (landscape architect is responsible to obtain one full size set and one reduction to 11"x17" from the contractor)
 - park manual including statistics and maintenance items:
 - Legal description (also include this item on tender set)
 - Park location (also include this item on tender set)
 - Total area (also include this item on tender set)
 - CSA certification of as-built playground(s) (may be obtained from the contractor or the playground supplier or installer). An independent playground inspector is not required with the exception of the rubberized surfacing where the landscape architect is responsible to obtain testing results for rubberized surfacing where it is being used.
 - ESA safety certificate for electrical works (may be obtained from the contractor or electrical sub-consultant)

- Number of coniferous & deciduous trees, shrubs, and groundcovers.
- Recommended maintenance schedule of park including watering schedule, turf cutting schedule, etc.
- Linear length of pathways
- Identifying all park facilities (soccer fields and their sizes, tennis court and their sizes, water play facilities, Junior and/or Senior Playgrounds etc)
- Start and targeted end of warranty period
- End of Warranty and Certification of works by Landscape Architect certifying that the works have been completed in general conformance to the landscape plans and specifications, and that all deficiencies and warranty obligations have been completed. The certificates shall be affixed with the full member's OALA seal signed and dated.

Definitions:

“Construction Period” shall mean the time required to construct the park, commencing once the construction contract is awarded through to Final Completion.

“Inspections” shall mean conducting an on site meeting to review the work and identify deficiencies, documenting deficiencies, preparing and issuing the deficiency list, and provide the necessary follow-up site inspections and reports to confirm rectification of deficiencies. It is expected that the contractor shall perform his warranty obligations at the anniversary of the one and two year warranty periods.

“Contract Administration” shall include, but is not limited to, the evaluation of bid submissions, contractor coordination and liaison, site inspections as required, coordination of site meetings, preparation of meeting minutes, preparation and issuance of contemplated change notices, change orders, progress payment certificates, substantial performance certificates, and completion and warranty inspections.

“Substantial Performance” shall mean substantial performance as defined in the latest edition of the Construction Lien Act.

“As-built Drawings” shall mean documents prepared or redlined by the contractor showing the location of items within the park constructed as part of this contract.

“Final Completion” shall mean that park construction is 100% complete without any deficiencies, has been accepted by the Town for

maintenance, the warranty period has expired and all warranty work has been completed and accepted by the Town.

“Services” shall mean the provision of landscape architectural consulting services as set out under the Scope of Work.

“Surface Strata Park” shall mean parkland that is situate above an elevation determined by the Town of Markham for the purposes of demarcating the property line between the public park above and private underground structure below.

APPENDIX C: DEVELOPER OBLIGATIONS: TWO YEAR MAINTENANCE ACTIVITIES

Cutting Turf:

- All turf areas shall be cut at a height of 2 ½"
- All turf areas shall be cut once every 12 to 14 days, as required.
- Naturalized or meadow areas shall be cut once per year in the spring.

Fertilizer:

- All turf areas shall be fertilized with 33-6-6 complete with 50% S.C.U. (sulphur coated urea) at one pound of nitrogen per thousand square feet of turf.
- General turf areas shall be fertilized twice per year.
- Naturalized or meadow areas do not need to be fertilized, unless it is determined during the maintenance period, that fertilizer might improve poor growth.

Trash/Litter/Recycling:

- As a minimum, litter is picked up from the ground on the same frequency as turf cutting unless there is a complaint, and then it shall be done within 24 hours.
- Litter is to be picked up prior to cutting of the turf unless there is a complaint, and then it shall be done within 24 hours.
- Trash and recycling shall be picked up once per week unless there is a complaint, and then it shall be done within 24 hours.
- Moloks are to be emptied at least twice per year with frequency depending on the size, location and use unless there is a complaint, and then it shall be done within 24 hours.

Water Systems (Irrigation/Water Play/Turf Valves/Yard Hydrants/etc.)

- All water systems shall be winterized in the Fall.
- All water systems shall be started up and programmed (where a programmer exists) each Spring.
- Repairs to each water system shall be performed as they are discovered.
- For splash pads, the Town will perform water quality tests in the Spring and periodic testing to ensure chlorine levels are maintained to legislated levels.
- Water meters and backflow preventors shall be inspected once per year.
- Backflow preventors shall be tested and certified.

Snow Ploughing:

- Not usually performed on park walkways except where park walkways provide the only direct access to the front doors of homes that abut and front onto parks.

Playgrounds:

- Playgrounds shall be inspected at least once a week with a visual inspection. Inform the contractor and Town of any irregularities or safety concerns.
- Sand is topped up as required (Hutcheson Sand) by the contractor.
- Rubberized surfacing shall be swept and repaired as required by the contractor.

Planting Beds & Trees:

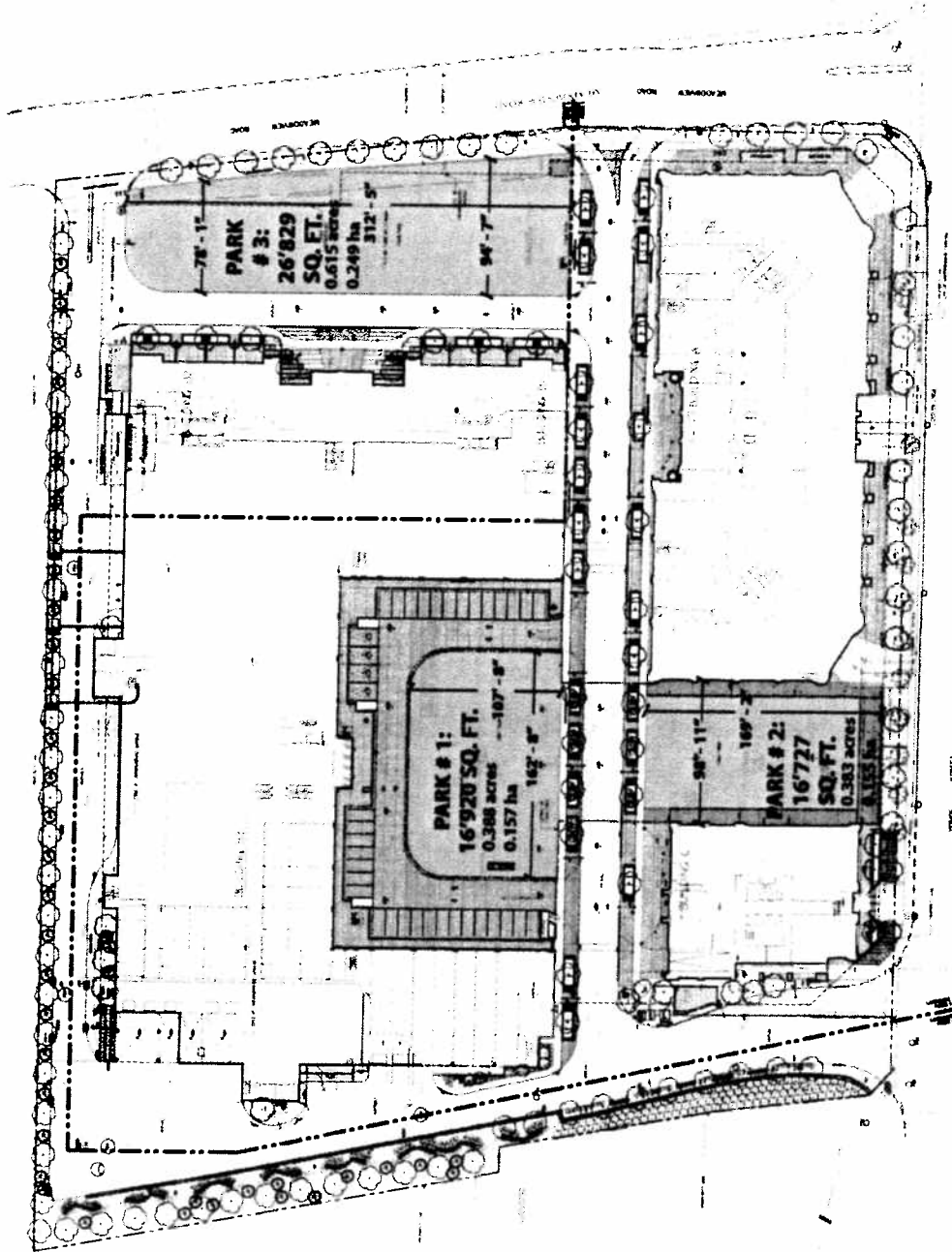
- Beds weeded twice per year, unless there is a complaint, and then it shall be done within 24 hours.
- Tree saucers are weeded twice a year.
- Mulch is topped up when needed with shredded cedar bark mulch.

Aeration/Topdressing/Over-seeding:

- As required by the contractor and as specified under the contraction contract

Payment of Water & Hydro:

- The Town shall pay for water and hydro once the park reaches substantial completion and it is being used by the public for the purposes intended.



**7171 Yonge Street
WORLD ON YONGE
PARKS**