

Modular Housing Initiative Phase 2: Update Report, and Amendments to Purchase Order Numbers 6052027 and 6052881 issued to NRB Inc. for Design- Build Services for Supportive Housing

Date: May 30, 2024

To: Planning and Housing Committee

From: Executive Director, Housing Secretariat; Executive Director, Corporate Real Estate Management; and Chief Procurement Officer

Wards: Ward 18 – Willowdale; Ward 21 – Scarborough Centre

REASON FOR CONFIDENTIAL INFORMATION

The attachments to this report contains confidential information regarding a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by the City.

SUMMARY

The purpose of this report is to provide an update on the Modular Housing Initiative Phase 2, and to request Council authority to enable City Divisions to restart and complete the projects at 175 Cummer Ave., and 39 Dundalk Dr., respectively, by approving Purchase Order Amendments for both projects to ensure funding is in place to complete required work.

In April 2020, as an urgent response to the Covid-19 pandemic and its disproportionate impact on people experiencing homelessness, the City launched the Modular Housing Initiative to rapidly create at least 250 new rent-geared-to-income and supportive homes using modular construction. Four of five projects have since been tenanted, providing a safe, affordable place to call home for over 200 residents formerly experiencing homelessness, with wrap-around support services to help them maintain their housing and improve their health and well-being.

The project at 175 Cummer Avenue was announced in Spring 2021 as part of Phase Two of the Modular Housing Initiative, along with 540 Cedarvale Ave. and 39 Dundalk

Dr. While Cedarvale is complete and Dundalk is nearing completion with only landscaping and a review of costs escalations remaining, the project at 175 Cummer Ave was delayed, first because Council's request for a Minister's Zoning Order did not yield a response, and second because of an appeal to the Ontario Land Tribunal (OLT) of Council's approval of the new zoning by-law for the development in August 2022.

A hearing of the appeal was held at the OLT on November 2, 2023. On January 2, 2024 the OLT released its decision, dismissing the appeal and ruling in the City's favour. The appellants later requested a further review of the OLT's decision on January 31, 2024, but this request was dismissed by the OLT on February 22, 2024. A motion for leave to appeal the OLT's decision to Ontario Divisional Court was also denied on May 17, 2024. While the appellants have since made a judicial review application to the Divisional Court to challenge the OLT decision, the OLT decision stands, and zoning is in place to permit the proposed development to proceed.

This report requests authority to enable City Divisions to restart and complete the projects at 175 Cummer Ave., and 39 Dundalk Dr., respectively, by approving Purchase Order Amendments for both projects to ensure funding is in place to complete required work.

The Confidential Attachments include confidential information regarding the pricing for these projects under negotiation with the City's supplier, estimated costs to complete the projects, and confidential information related to delivery of the project at 175 Cummer Ave.

RECOMMENDATIONS

The Executive Director, Housing Secretariat, Executive Director, Corporate Real Estate Management and Chief Procurement Officer recommend that:

1. Planning and Housing Committee, in accordance with Section 71-11.1C of the City of Toronto Municipal Code Chapter 71 (Financial Control By-law), authorize the amendment of Purchase Order Number 6052027 issued to NRB Inc. for design-build services for the supportive housing building located at 175 Cummer Avenue, as set out in Confidential Attachment 1.
2. Planning and Housing Committee, in accordance with Section 71-11.1C of the City of Toronto Municipal Code Chapter 71 (Financial Control By-law), authorize the amendment of Purchase Order Number 6052881 issued to NRB Inc. for design-build services for the supportive housing building located at 39 Dundalk Drive, as set out in Confidential Attachment 1.
3. Planning and Housing Committee authorize the public release of Confidential Attachment 1 following the conclusion of negotiations and issuance of the Purchase Order Amendments referenced in the report.
4. Planning and Housing Committee authorize the public release of Confidential Attachment 2 following completion of the projects referenced in this report.

5. Planning and Housing Committee, authorize the award of contracts to NRB Inc. under the Request for Proposal No. 2020-053 for Modular Housing Design Build at 175 Cummer Avenue and 39 Dundalk Drive, in accordance with the requirements of the Request for Proposal Document and the CCDC-14 executed Agreements.

FINANCIAL IMPACT

The Modular Housing Initiative is led by the City of Toronto and funded by all three levels of government. The capital costs of the projects are funded by a combination of City capital funding sources, and funding and financing from the federal government through the Canada Mortgage and Housing Corporation. Operating costs for the wrap-around support services delivered to residents of the homes are funded by the Province of Ontario.

Confidential Attachments 1 and 2 contains relevant Financial Impact information including details related to the estimated cost to complete the projects, and confidential details of updated pricing from the City's supplier, which are subject to negotiation.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

EQUITY IMPACT STATEMENT

The HousingTO 2020-2030 Action Plan (HousingTO Plan) envisions a city in which all residents have equal opportunity to develop to their full potential. It is centred in a human rights-based approach to housing, which recognizes that housing is essential to the inherent dignity and well-being of a person and to building healthy, inclusive and sustainable communities. It is also focused on increasing the supply of new affordable homes, protecting the existing housing stock and helping renters to achieve and maintain housing stability.

The City of Toronto's Modular Housing Initiative has been designed to prioritize funding and resources to rapidly deliver new safe, affordable and supportive homes for some of Toronto's most vulnerable residents who are experiencing or at risk of homelessness. Individuals experiencing homelessness come from diverse backgrounds, and Indigenous people and equity-deserving groups are over-represented in the City's homeless population. Creating new affordable and supportive homes through the Modular Housing Initiative will increase opportunities for low-income Indigenous residents and people from equity-deserving groups to access safe, secure and adequate homes.

Access to good quality, safe, affordable housing is an important determinant of health and improves the social and economic status of an individual. Good quality, affordable housing is also the cornerstone of vibrant, healthy neighbourhoods and supports the environmental and economic health of the city, region and country as a whole.

The City utilizes property tax exemptions as a tool in its strategy to secure affordable units in new housing developments. Households residing in the homes/units that are property tax exempt do not pay property taxes directly or indirectly through rent.

The Canada Revenue Agency has advised the City that tenants paying rent in affordable units are not eligible for The Ontario Energy and Property Tax component of the Ontario Trillium Benefit (OTB) (administered by the Canada Revenue Agency) which seeks to help low-to moderate income Ontarians pay for energy costs, sales, and property taxes.

Those living in affordable housing projects, including those in the projects recommended in this staff report will be ineligible for the OTB. Tenants may be required to repay tax credit amounts they received in the past but were ineligible to receive.

DECISION HISTORY

At its meeting of July 19-20, 2023, City Council adopted Item No. AU2.7, "City of Toronto's Modular Housing Initiative: The Need to Balance Fast Delivery with Stronger Management of Contracts and Costs," which presented a series of recommendations to improve the management and delivery of the City's modular housing initiative.
<https://secure.toronto.ca/council/#/committees/2462/23196>

At its meeting of July 19-22, 2022, City Council adopted Item No. PH35.21, "Advancing Affordable and Supportive Housing Projects, Programs, and Initiatives" which authorized City staff to submit an application for funding under any time-sensitive federal or provincial funding program announced during the term of the Council break, enter into a Contribution Agreement with CMHC for funding under the program, and extended a number of authorities previously provided under PH26.4, to enable staff to advance affordable and supportive housing projects.
<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH35.21>

At its meeting of May 11, 2022, City Council adopted Item No. PH33.3, which amended the City of Toronto Zoning By-Law to permit a three-storey residential building containing up to 60 residential dwelling units at 175 Cummer Ave.
<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH33.3>

At its meeting of June 8 and 9, 2021, City Council adopted Item No. PH23.3, "Modular Housing Initiative: Phase Two – 175 Cummer Avenue – Final Report" which requested the Minister of Municipal Affairs and Housing make a Minister's Zoning Order, authorized the Executive Director, Housing Secretariat, to issue a Request for Proposals to select a qualified non-profit housing provider to operate the homes with supports to be developed at the site, and enter into a Municipal Housing Facility Agreement with the selected provider.
<https://secure.toronto.ca/council/agenda-item.do?item=2021.PH23.3>

At its meeting of December 16, 17 and 18, 2020, City Council adopted Item PH19.11 - "Emergency Housing Action" and authorized staff to implement a plan a plan for the City

to accelerate 150 new supportive housing opportunities within 8 to 10 weeks, and a further 510 housing opportunities within 10 to 12 weeks for people experiencing homelessness, based on the availability of funding for supportive services.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH19.1>

At its meeting of April 30, 2020, City Council adopted CC20.6 "Implementing the Toronto Modular Housing Initiative as an Urgent Response to the COVID-19 Pandemic" which launched the modular housing initiative (MHI) and authorized tax exemptions of 35 years on MHI projects.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC20.6>

At its meeting of December 17-18, 2019 City Council adopted PH11.5 "HousingTO 2020-2030 Action Plan" as the framework to address Toronto's housing and homelessness challenges by 2030. This Plan includes a number of actions and targets to address critical needs across the housing spectrum including emergency shelters and transitional housing, social and supportive housing, market and affordable rental housing and home ownership. This item also authorized staff to work with the Toronto Alliance to End Homelessness to expand the Coordinated Access to Housing and Supports System and to increase housing outcomes for people experiencing homelessness. The City Council decision can be found at:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH11.5>

COMMENTS

Background

In April, 2020, the City launched the Modular Housing Initiative (MHI) as an urgent response to the COVID-19 pandemic and to create new supportive homes quickly to relieve pressure on the City's shelter system. The Initiative aimed to rapidly create at least 250 new rent-geared-to-income and supportive homes across five projects.

The project at 175 Cummer Ave. was announced in March 2021 as part of Phase Two of the Initiative, along with 540 Cedarvale Ave. and 39 Dundalk Dr. Throughout 2021 and 2022, the City undertook multiple community engagement activities related to the project at 175 Cummer Ave., including providing notices, project fact sheets and feedback forms in multiple languages; holding four virtual public meetings; establishing a community liaison; and meeting with key stakeholders. All details related to community engagement for the project are available on the [project website](#).

At its meeting of June 8 and 9, 2021, City Council requested the Minister of Municipal Affairs and Housing make a Minister's Zoning Order (MZO) to permit the development. The requested MZO did not yield a response, and City Council instead directed staff in March 2022 to undertake a municipal-led rezoning process. City Council adopted the zoning by-law to permit the development at its meeting of July 19-22, 2022, however this was appealed to the Ontario Land Tribunal in August, 2022. The following activities have occurred since the appeal was filed:

- On November 2, 2023, a hearing of the appeal was held by the OLT.

- On January 2, 2024, the OLT released its decision, dismissing the appeal and ruling in the City's favour.
- On January 31, 2024, the appellants requested the OLT review its decision. This request was dismissed by the OLT on February 22, 2024.
- A motion for leave to appeal the OLT's decision to Ontario Divisional Court was also denied on May 17, 2024.

While the appellants have since made a judicial review application to the Divisional Court to challenge the OLT decision, the OLT decision stands, and zoning is in place to permit the proposed development to proceed.

Aside from 175 Cummer Ave, all other Modular Housing Initiative projects received requested MZOs, and have largely completed construction and been tenanted, providing new homes for over 200 people formerly staying in the City's shelter system and experiencing homelessness. With zoning now in place, the City is moving forward with re-starting construction at 175 Cummer Ave. to create 59 new rent-geared-to-income and supportive homes for people experiencing or at risk of homelessness, equity-deserving groups, and other Toronto residents in need of safe, affordable housing.

Project Authorities

This report requests authorization for the awards to NRB Inc. in 2021, following the completion of RFP #2020-053, issued by CreateTO to retain Design Build services for the City's Modular Housing Initiative – Phase Two. Following the completion of this RFP, on March 4, 2021, an award (PO#6052027) was made for modular housing Design Build at 175 Cummer Avenue, and on December 14, 2021, an award (PO#6052881) was made for modular housing Design Build at 39 Dundalk Dr. Both awards were made utilizing authorities delegated to staff via PH19.11a Emergency Housing Action adopted by City Council at its meeting of December 16,17, and 18 2020, and MM25.32 Implementation of the Federal Rapid Housing Initiative adopted by City Council at its meeting of October 27, 2020.

Through due diligence related to requesting the purchase order amendments referenced in this report, staff have identified that appropriate authorities were not received to award the contracts referenced above. The projects at 175 Cummer Ave. and 39 Dundalk Dr. did not receive funding under the Rapid Housing Initiative and cannot rely on delegated authorities associated with that program to establish contracts and amend purchase orders.

Project Delivery Updates

The City had directed NRB Inc. to update and prepare plans to restart the project at 175 Cummer Ave., which include establishing updated project delivery timelines and revised pricing. Pricing has been received from NRB Inc. for 175 Cummer Ave., as well as final pricing to complete outstanding work at 39 Dundalk Dr.

Since the project was launched in 2021 and modules manufactured, Toronto's residential construction sector has experienced rapid price escalation, related to

materials and labour shortages, materials price increases, inflation, and other factors. According to [StatsCan Building Construction Price Indexes \(Residential\)](#), Toronto construction costs have escalated 82% from Q1 2020 to Q1 2024. This includes year-over-year cumulative residential construction cost increases of 13.9% in 2021, 26.7% in 2022, 17.6% in 2023, and 7.6% in 2024. 175 Cummer has been exposed to this magnitude of cost escalation since being paused in 2021. Unanticipated costs associated with transportation and long-term indoor storage have also been incurred as a result of zoning delays. With zoning now in place, purchase order amendments are required to complete remaining work on the project, including all excavation, foundation, utilities, interior finishing, and landscaping work.

As contract values are subject to ongoing negotiation, all details related to updated project costs are provided in Confidential Attachment 1 to this report.

Corporate Real Estate Management and Housing Secretariat are implementing recommendations from the Auditor General's report, adopted by City Council on July 19, 2023 ([AU2.7](#)), including to strengthen contract administration and vendor management.

The Auditor General made 20 recommendations that would improve program and project management of modular housing projects, and balance speed of delivery with management of risks and costs. Among these recommendations was a focus on:

- Improved project planning and budget preparation to ensure estimates better reflect actual costs;
- Strengthening tracking, monitoring, and reporting of project costs, including more consistent processes and due diligence related to contractor claims, and more frequent reports back to Committee & Council; and
- Improving contract management policies and procedures, including analysis of change orders, documentation, and contractor performance management.

These and other Auditor General recommendations are being implemented across all modular housing projects.

Confidential Attachment 2 contains confidential information related to delivery of the project at 175 Cummer Ave.

Approval of the recommendations contained in the Confidential Attachments to this report will ensure these projects can be rapidly completed. 175 Cummer has now been delayed for over 20 months. Subject to approval and completed contract negotiation with the supplier, the City will be able to complete remaining work at 39 Dundalk Dr. this fall, and anticipates to restart construction on-site at 175 Cummer in summer of 2024, with construction to complete in 2025.

The Housing Secretariat will also issue a Request for Proposals to select an experienced non-profit housing and support services provider to lease and operate the building and provide wrap-around supports to tenants.

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SIGNATURE

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ATTACHMENTS

Confidential Attachment 1: Modular Housing Initiative – Revised Project Pricing
Confidential Attachment 2: Modular Housing Initiative – Project Delivery Details