



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Staff Due Diligence Review of the Proposed George Brown College Campus – East Bayfront

Date:	October 24, 2008
To:	Executive Committee
From:	Deputy City Manager Manager Richard Butts
Wards:	28
Reason for Confidential Information:	This report involves the security of property belonging to the City or one of its agencies, boards, and commissions.
Reference Number:	P:\2008\Cluster B\Wf\ec08008

SUMMARY

The Toronto Waterfront Revitalization Corporation (WT), as Council’s designated revitalization lead in East Bayfront (EBF), has endorsed the development of a George Brown College (GBC) waterfront campus on 0.83 ha (2.04 acres) of City-owned land, subject to the approval of Toronto City Council. The campus will house the College’s Centre for Health Sciences including its academic facilities, a 500-bed student residence, recreation centre and below grade parking.

This report provides the results of City staff’s due diligence review of WT’s proposal and seeks authorization to enter into a long-term ground lease with GBC, the major terms of which are contained in Attachment 2. The lease term is 103 years, consisting of an initial four year design and construction period followed by a 99 year term. The ground lease addresses the City’s concerns as land-owner and GBC’s obligations as tenant. WT is not a party to the ground lease; however, the lease is premised on WT’s designation as revitalization lead and its limited life span remaining of approximately 20 years under the *TWRC Act, 2002*. Following the dissolution of WT, the lands will continue to be owned by the City of Toronto.

Terms relating to the construction and development of the campus are set out in development agreements and certain other agreements between WT, as revitalization lead

with responsibility for the overall coordination of waterfront projects and infrastructure, and GBC, as builder and future owner of the campus buildings. The City is not a party to these agreements. However, the agreements are premised on the satisfaction of all City regulatory processes.

This report also seeks Council's endorsement of a non-binding Letter of Intent (LOI) as a basis for negotiations with GBC and WT regarding a joint GBC/municipal recreation facility to be situated in the student residence building. The LOI is contained in Attachment 4 to this report.

The subject lands are located south of Queens Quay East between Lower Jarvis and Lower Sherbourne Streets, identified as Blocks 3, 4 and 5 on Figure 1 (Attachment 5). Block 3 will house the academic facilities of the campus. Block 5 will house the student residence facilities and recreation centre. Block 4 is a below grade parcel located under the future public road between Blocks 3 and 5. The below grade portions of Blocks 3 and 5 together with Block 4 will form one connected underground parking facility providing parking for GBC use, the adjacent First Waterfront Place (Corus Entertainment Inc.) development and visitors to the precinct at large.

RECOMMENDATIONS

It is recommended that:

- (1) Council grant authority for the City, as Landlord, to enter into a long term lease agreement (the "Lease") with The George Brown College of Applied Arts and Technology (the "Tenant") for that part of the EBF Lands shown as Blocks 3, 4 and 5 on Attachment 5 (the "Leased Lands") substantially on the terms and conditions set out in Attachment 2, together with such other terms and conditions as may be deemed appropriate by the Deputy City Manager whose responsibilities include Waterfront Revitalization in consultation with the Chief Corporate Officer and in a form satisfactory to the City Solicitor, subject to Recommendation (2) of this Report;
- (2) Prior to the City entering into the Lease, the following matters be completed or provided for to the satisfaction of the Deputy City Manager whose responsibilities include Waterfront Revitalization, in consultation with the City Solicitor and other City officials as appropriate:
 - a. Registration of the plan of subdivision which includes the Leased Lands;
 - b. WT and GBC having entered into the development agreements, which shall include settling the terms of all other agreements required under the development agreements including the ground floor animation agreement, energy services agreement and underground parking agreement;

- c. GBC having agreed to sublease to GBC and WT as co-tenants, the underground portion of the Leased Lands to facilitate construction of an underground parking garage by GBC and WT and confirmation from WT that WT will make parking available to the tenant of First Waterfront Place as required under the TEDCO lease to Corus Entertainment Inc. authorized by Council at its meeting of May 23, 24 and 25, 2008;
 - d. The receipt by the City of a legal opinion in respect of the corporate status, powers and authority of the Tenant (GBC) to enter into the Lease;
 - e. An undertaking from WT to the City that all base rent received by WT from the Tenant in accordance with Recommendation (3) shall be used for re-investment in the revitalization of the waterfront in accordance with Policy and Finance Committee Report 9, Clause 1, headed “Governance Structure for Toronto Waterfront Revitalization” adopted by Council at its meeting of November 30, December 1 and 2, 2004; and
 - f. An undertaking from WT to the City that WT will circulate all GBC/WT development agreements and associated agreements to the City for consideration and will obtain the City’s input on all matters which materially affect the City’s interest as landowner.
- (3) Council grant authority for the City, concurrent with the City’s execution of the Lease, to direct the Tenant to pay all base rent under the Lease to WT during the first 24 year rental period in form and content satisfactory to the City Solicitor;
 - (4) Council authorize WT to capitalize both the base rent for the first twenty years of its operation as provided for in Recommendation (3) and the interest of WT in the underground parking structure subject to the proceeds from both endeavours being reinvested in Waterfront Revitalization;
 - (5) Council direct the Waterfront Project Director that the base rent which is redirected to WT from GBC as provided for in Recommendation (3), and/or any capitalization provided for in Recommendation (4) be recognized as part of the City’s overall contribution to waterfront renewal, and be reported by WT in its quarterly funding reports submitted to the three orders of government as part of the Waterfront Renewal Accounting Protocol;
 - (6) Council authorize the Deputy City Manager whose responsibilities include Waterfront Revitalization, in consultation with the Chief Corporate Officer and City Solicitor, to negotiate and have executed the Lease, including any amendments in relation to the Lease not materially inconsistent with the major

terms and conditions described in Attachment 2 to this report as approved by Council;

- (7) If the Lease is not finalized and executed by December 31, 2009, the Deputy City Manager whose responsibilities include Waterfront Revitalization be directed to report back to the Executive Committee with a recommended course of action;
- (8) Council grant authority to the Chief Corporate Officer, his successor / designate, in consultation with the Waterfront Project Director, to administer and manage the Lease including the provision of any consents (including but not limited to consents to any subleases, assignments, financial charges of any interests in the Lease or the Leased Lands for the underground parking facility and the development of the Block 5 portion of the Leased Lands), approvals, waivers, notices (including notices of termination) provided that the Chief Corporate Officer may, at that time, refer consideration of such matters (including their content) to City Council for its determination and direction;
- (9) Subject to Recommendation (10), that the City consent to the Tenant acting as the City's agent as owner of the Leased Lands to sign any planning or development applications and agreements in furtherance of the development and construction of the Leased Lands, or alternatively that the City itself execute such documentation solely in its capacity as owner of the Leased Lands, on terms satisfactory to the Deputy City Manager whose responsibilities include Waterfront Revitalization, and in form satisfactory to the City Solicitor;
- (10) All actions described in Recommendation (9) shall be taken by or on behalf of the City in its capacity as land owner and not in its capacity as a planning authority under the *Planning Act*, the *City of Toronto Act, 2006*, or otherwise and such actions are not intended to and do not fetter the City's planning and municipal rights and responsibilities;
- (11) City consent to WT acting as the City's agent as owner of the Leased Lands and/or any other lands within EBF, to sign any infrastructure, servicing or any other applications and agreements including agreements with Toronto Hydro, Enbridge Gas or any third party utility provider, required for the development of the Leased Lands, and/or any other lands within EBF or alternatively that the City itself execute such documentation solely in its capacity as land owner, provided WT agrees to assume all obligations including costs and liabilities under such documentation and subject to such other terms satisfactory to the Deputy Manager whose responsibilities include Waterfront Revitalization, and in form satisfactory to the City Solicitor;
- (12) The Chief Corporate Officer and the Deputy City Manager whose responsibilities include Waterfront Revitalization, be authorized singularly or jointly as necessary to execute and deliver all such documentation described in Recommendations (9) and (11) of this Report, on behalf of the City;

- (13) Council authorize the Deputy City Manager whose responsibilities include Waterfront Revitalization to execute the non-binding GBC/WT/City Letter of Intent contained in Attachment 4 to this report as a basis for continued negotiations amongst the three parties regarding a joint GBC/municipal recreation facility at the base of the student residence building on Block 5, subject to any further revisions required by the City Solicitor;
- (14) Council direct the Waterfront Project Director, in consultation with the General Manager of Parks, Forestry and Recreation and the Director of the Office of Partnerships, that following negotiations regarding a joint GBC/municipal recreation facility, to bring forward any agreements with the parties addressing, amongst other matters, the items identified in the Letter of Intent or alternatively, a report outlining areas of disagreement;
- (15) Council direct the Waterfront Project Director, in consultation with the City Solicitor, to report to the Executive Committee with recommendations as to the advisability of the City entering into any successor agreement(s) with WT in respect of the East Bayfront Lands prior to the winding up of the WT corporation as provided for in the *Toronto Waterfront Revitalization Corporation Act, 2002*;
- (16) Council authorize the public release of the confidential information in Attachment 1 upon the completion of the development of the publicly-owned lands in EBF as determined by the Deputy City Manager whose responsibilities include Waterfront Revitalization; and
- (17) The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

FINANCIAL IMPACT

During the first twenty-four years, the lease of the subject lands to GBC will not result in any financial impact on the City. WT has indicated that it may sell the rights to the rental revenues received over this initial period to a third party in order to realize an up-front payment that can be used to fund other revitalization activities. This is in accordance with Policy and Finance Committee Report 9, Clause 1, headed “Governance Structure for Toronto Waterfront Revitalization” adopted by Council at its meeting of November 30, December 1 and 2, 2004, which recommended that revenues derived from the lease or sale of City lands in the Designated Waterfront Area (DWA) be reinvested through WT in other revitalization projects.

After the first twenty-four years, the land lease revenues will flow to the City for the remainder of the 103-year lease with GBC. During this remaining period of the lease, the land rents paid by GBC are to be based on the market value for similar land being applied for a similar use.

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

DECISION HISTORY

In September 2005, Council approved a report entitled “Implementation of a New Governance Structure for Toronto Waterfront Renewal.” The report confirmed that effective control of public lands in the waterfront was to be provided to the TWRC (now WT) on an incremental basis, following detailed business and implementation plans. The report also directed that Memorandum of Understanding’s (MOU’s) be developed between government partners and their respective agencies to, amongst other matters, designate WT as the revitalization lead subject to certain conditions.

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050928/pof8rpt/agendain.pdf>

In January/February 2006, Council authorized the City to enter into a City/WT/TEDCO MOU covering lands then owned by TEDCO in the EBF and Port Lands. The MOU defined the requirements for the detailed business and implementation plans prior to providing WT with effective control of City or TEDCO-owned lands in the DWA.

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060131/pof1rpt/agendain.pdf>

In July 2006, Council approved WT’s Business and Implementation Plan for EBF. Components of the Business and Implementation Plan were a financial model; employment strategy; cultural and animation strategy; ground floor retail strategy and project schedules. Key tenets of the Plan are to achieve aggressive non-residential targets in EBF and to attract strategic employment opportunities which provide opportunities for collaboration and leadership. In this regard, WT identified the post-secondary educational sector as a potential anchor for the EBF.

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060725/pof6rpt/agendain.pdf>

In July 2007, Council authorized the transfer of lands owned by TEDCO in EBF, excluding the First Waterfront Place lands, to the City of Toronto. At the time of the report, Council was advised that WT was in active discussion with an (unnamed) post-secondary institution regarding an educational campus presence in the EBF. One of the pre-conditions of the transfer was that the selection of the institutional tenant or, in the absence of this, the release of a RFQ for the first development phase be completed by September 30, 2007. In November 2007, as negotiations were continuing with the institutional tenant, Council extended this deadline to May 31, 2008.

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-07-16-cc11-dd.pdf>

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-12-11-cc15-dd.pdf>

In accordance with the City’s Real Estate Disposal By-law, 814-2007, the GBC lands were declared surplus on October 21, 2008 (DAF No. 2008-180), with the intended manner of disposal to be by way of a long term lease with GBC. As of the writing of this report, not all of the steps necessary to comply with the City’s real estate disposal process as set out in Chapter 213 of the City of Toronto Municipal Code have been complied

with, as notice of the proposed disposition has not been given. However, by the date of consideration of Council, the required public notice will have been given.

ISSUE BACKGROUND

The inclusion of a post-secondary institutional use in the EBF is one of the cornerstones of WT and the City's revitalization vision for the area. Since 2004, WT has conducted discussions with almost every post-secondary institution within the Greater Toronto Area, and in some cases, beyond. By early 2007, after numerous discussions and follow-ups, only one institution, GBC, continued to express a strong interest in the waterfront. Accordingly, WT entered into formal negotiations with GBC in 2006 while continuing to meet with other post-secondary institution on an ongoing basis.

The WT/GBC negotiations culminated in WT Board approval to the majority of business terms in January 2008. Subsequently, in February 2008, the GBC Board adopted most of the terms and conditions and both parties set out to finalize the terms through a LOI. The LOI was finalized in March 2008 and approved by WT's Board in April 2008.

On May 15, 2008, WT provided the City with a summary package and first draft of a proposed ground lease reflecting the WT/GBC agreement. Also submitted for the City's review was a draft WT/GBC development agreement. A City staff team consisting of Waterfront Secretariat, Legal, Finance, Real Estate and City Planning has undertaken a due diligence review of the proposed transaction with a view to protecting the City's interests while recognizing WT as revitalization lead responsible for waterfront implementation.

Concurrent with the staff review of the ground lease, a City staff team from the Waterfront Secretariat, Parks, Forestry and Recreation, the Office of Partnerships and City Planning have collaborated on a feasibility study with GBC and WT that examined the potential for a shared GBC/municipal recreation facility within this development. As an outcome, a non-binding LOI has been developed amongst the parties to provide a framework for future negotiations. On September 24, 2008, the GBC Board unanimously endorsed the shared use feasibility study. While the LOI has yet to be formally considered by the GBC Board, the LOI has been signed off by staff from all three organizations.

COMMENTS

Location

The ground lease applies to a 0.83 ha (2 acre) parcel shown as Blocks 3 and 5 on Figure 1 (Attachment 5) and an 882 sq. m. (0.2 acre) below grade parcel (Block 4) which will form part of the underground parking serving the development. Block 3 will house the College's academic facilities including classrooms, laboratory space, multi-purpose rooms, administrative offices and other educational facilities. The student residence building will be situated on Block 5 with the easterly 18 m reserved as a publicly

accessible private right-of-way for vehicular and pedestrian access between Queens Quay East and the water's edge.

The subject site is immediately east of the First Waterfront Place (Corus Entertainment Inc.) development currently under construction. No users have been identified by WT for Blocks 1 and 2.

Sherbourne Park will be situated to the immediate east of the GBC campus. The campus will also front onto the water's edge promenade and will be steps away from the proposed Jarvis Slip Public Space at the foot of Jarvis Street adjacent to First Waterfront Place.

Proposal

The proposed educational campus will consolidate and expand GBC's Centre for Health Sciences as well as provide the College's first student residence building. Major faculties within Health Sciences include nursing, dental and various fitness and lifestyle based programs. The academic programming will be enhanced by facilities and programs in the planned recreational complex which include a health promotion centre and health clinics. The total project cost is estimated at \$190 million and is projected to attract upwards of 3,500 students. Construction of the development is slated to begin in 2009. A three-year build out is anticipated in order to meet the College's target opening date of September 2012.

Funding of the Academic Facilities and Student Residence

Funding for the project comes from a variety of sources. The academic facilities will be developed with committed provincial funding and GBC's own funds. This includes a \$61.5 million grant announced by the Province of Ontario in July of this year. Provincial educational funds, however, cannot be applied to the provision of student housing. Therefore, GBC will be seeking a private partner to jointly finance, build and operate the student residence and recreation facility, the latter subject to finalization of an agreement with the City if a joint GBC/municipal facility is pursued.

According to WT and GBC, securing a private partner is the accepted method for constructing non-academic student facilities throughout the Province. In exchange for financing the construction, the partner receives the income from the student residence and GBC's share of the recreation facilities. GBC has retained Deloitte Financial Advisors to assist them in their efforts to structure a procurement process. In this regard, GBC's intent is to release an RFP following Council approval of the ground lease.

Other sources of funding include WT's share towards the construction of the underground parking structure as described below and the potential for a financial contribution by WT towards the municipal elements of the recreation centre, if current discussions regarding the shared GBC/municipal facility are successful. Funds for both of these investments are included in the Five Year Plan / Ten Year Financial Forecast for

Waterfront Revitalization that will be considered by Council at its meeting on October 29, 2008.

Financing of the Underground Parking Structure

Recognizing the parking requirements of GBC plus WT's obligation to provide both parking in support of First Waterfront Place and its mandate to ensure sufficient public parking for the EBF, GBC and WT have agreed to a 50/50 split of construction costs and revenues for a below grade parking garage. Initial plans for the garage show 558 parking spaces at the P2, P3 and P4 levels. The parking garage will not have a P1 level, immediately below the road and services, in order to provide adequate separation and thereby minimize impacts between the above and below grade activities. The two parties intend to jointly hire a fee operator with the understanding that they will first approach the City's Parking Authority. Furthermore, as neither parties' core business involves the operation of a parking garage, they intend to explore the potential of capitalizing the parking garage revenues at some point in the future. WT's share of these funds, in turn, will be reinvested in waterfront infrastructure in accordance with Council policy.

Ground Lease

The major Lease terms are contained in Attachment 2. The proposed development will involve subleasing of certain parts of the Leased Lands. The student residences will be developed through the use of a private sector partner and the operation of the underground parking facility will involve WT and a third party parking operator. Accordingly, these transactions will be documented in various subleases, sub-subleases, assignments or other agreements. GBC will not be released from any of its obligations under the ground lease by any of these sublease arrangements and will remain fully liable under the ground lease. Moreover, the City and WT will ensure the City's interests are addressed in the WT/GBC development agreements and associated agreements, which will carry through to any subleases. Finally, it should be noted that any sublease must be in accordance with the use provisions of the ground lease, which restrict the uses on the site to college-related activities and ancillary commercial. No freestanding commercial, industrial, office or entertainment uses are permitted nor is residential development, except for the student residence.

Associated Agreements

As noted earlier, in addition to the ground lease between the City and GBC, details concerning respective roles in relation to the development process will be addressed in development agreements (one for each of Blocks 3 and 5) between WT and GBC as well as various associated agreements, including an underground parking agreement and ground floor animation agreement. The development agreements address expectations such as design excellence, LEED Gold requirements, district energy connections, and other WT planning objectives, as well as the role of WT and GBC in the design and construction process. The underground parking agreement, amongst other matters, will also make provision for a portion of the parking supply to be allocated for First Waterfront Place (Corus Entertainment Inc.) needs. Although the City is not a party to

these agreements, various drafts have been provided to the City for input. This practice will continue as the development agreements and other agreements are finalized. The ground lease requires that the development agreements, which will include the settled form of the related agreements, be completed and executed by the two parties prior to the City entering into the ground lease with GBC.

Planning Considerations

The GBC development, like all other waterfront developments, will be subject to the regular City regulatory process including Site Plan Control approval. As of this date, in the absence of the City/GBC lease and other agreements, GBC has not launched into a fulsome design process. However, preliminary material prepared by the College and discussions to date have confirmed GBC's intention to implement the East Bayfront Precinct Plan principles relative to heights, densities, ground floor animation and design excellence. All GBC designs will be subject to review by WT's Design Review Panel. WT, as part of the development agreement, has agreed to provide its "best efforts" to ensure the availability of LRT service by the end of 2011 and if not, its "best efforts" to ensure TTC provides adequate bus service to the site from Union Station.

Joint GBC/Municipal Recreation Facility

As part of the educational campus, GBC is proposing an athletic and recreational facility in the student residence building on Block 5 consisting of aquatic facilities, gymnasium space, a fitness centre and studios, a health promotion centre and multi-purpose program space/studios. As initially conceived, the facility would be available to the GBC student body and to the public at large on a fee-for-service basis similar to other university recreational facilities.

Recognizing the City's and WT's objective to provide recreational facilities as part of the EBF Precinct Plan vision, the City, WT and GBC recently initiated discussions to explore the possibility of a partnership to the benefit of all parties. In order to inform the parties regarding feasibility, a study was undertaken by LeisurePlan International Inc. The Executive Summary of the report is reprinted in Attachment 3.

The report identifies the following opportunities to the City, GBC and WT of a joint use facility:

- creation of a significant destination attraction and public activity generator;
- sharing of costs associated with the development and operation of a shared use complex;
- expansion and improvement of service provision levels for both partners;
- realization of a more diverse, sophisticated and comprehensive range of programs than either partner would be capable of on their own;
- development of a municipal aquatic facility in this highly desired location which the City may otherwise be unable to provide;
- rationalizing the use of existing and proposed future facilities in existing and new waterfront communities;

- improving service planning capacity and flexibility for both organizations to respond to future changes in demand for services;
- developing organizational competencies/capabilities associated with facility development and management;
- enhancing the profile of both partners (GBC and the City);
- allowing each partner to benefit from the experience of the other;
- ensuring more efficient space utilization and increased levels of facility use; and
- early availability of the facility relative to Waterfront Toronto's timing projections.

The study also foresees a natural division of management, operation and programming between the City and GBC whereby the City would operate the aquatic facility and community centre and GBC would operate the recreational, athletic and wellness centre facilities. Both parties would be jointly responsible for common areas.

With a favourable outcome to the feasibility study, the three parties have developed an unregistered non-binding LOI (see Attachment 4) as a basis for future negotiations related to the design, development, management and operation of a shared use facility. Premised on the division of operations between GBC and the City outlined in the feasibility study, the LOI outlines respective roles of the City, GBC and WT; shared principles which will guide future discussions and negotiations; and identifies the matters which will be covered in a future agreement between the parties including governance issues, capital financing, and joint operations. Although the shared use concept has been well-received by all parties, it is noted that discussions are at an early stage in mutual understanding and exploration. Staff will report further to Council on the outcomes of these negotiations and all required agreements as discussions progress.

CONCLUSION

The GBC campus represents the first development attracted to EBF by WT. A post-secondary educational use provides a unique opportunity to realize many WT/City waterfront revitalization aspirations as well as objectives contained in the City's Agenda for Prosperity. The GBC campus, with its school facilities, student residence building and recreation complex will generate year-round vibrancy and public access. The College will act as both a participant and locale for strategic collaboration amongst the future EBF community and surrounding neighbourhoods. Its commitment to progressive development and city building will provide leadership for other waterfront revitalization initiatives. In short, the GBC campus provides a perfect fit for the City and WT's revitalization aspirations for Toronto's waterfront.

The negotiation of the GBC ground lease, together with the review of the draft development agreements, represents the first opportunity for the City and WT to define their respective roles as they relate specifically to project implementation. This process will provide a framework for facilitating future development on public lands as proposals come forward.

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SIGNATURE

Richard Butts
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ATTACHMENTS

Attachment 1 - Confidential Information
Attachment 2 - Lease Terms
Attachment 3 - Executive Summary of Recreation Complex Feasibility Report
Attachment 4 - Letter of Intent
Attachment 5 – East Bayfront Draft Subdivision Phase I (Figure 1)

Attachment 2

MAJOR LEASE TERMS

Parties:	City of Toronto, as Landlord The George Brown College of Applied Arts and Technology, as Tenant
Leased Premises:	Lands located on the south side of Queens Quay East, east of the Jarvis Street Slip, being Part of Lot 22 on Plan 694-E Toronto, being Part of Part 1 on Reference Plan 66R-23533, shown substantially as Blocks 3, 4 and 5 on Draft Plan of Subdivision attached to this Report
Current Status of Leased Premises:	Vacant Land
"As is":	The Tenant accepts the Leased Premises "as is" in its present condition, including soil conditions, and acknowledges that the Landlord makes no representations with respect to the condition of the Leased Premises. The Tenant's assumption of responsibility is made subject to WT performing its obligations to GBC in respect of environmental matters under the development agreements.
Term:	The Term will allow for a 4 year design and construction period followed by a 99 year lease term.
Commencement Date:	First day of the month following execution of the Lease by both parties.
Basic Rent:	The rent structure is contained in the Confidential Attachment to this Report.
Additional Rent:	The Lease is a "net lease" to the Landlord. The Tenant shall pay all applicable realty taxes if any, utilities, charges, operating costs, repairs, maintenance and replacement of any components, structural or otherwise, in respect of the buildings

	<p>and improvements throughout the 4 year design and construction period and the 99 year Term.</p>
<p>Use:</p>	<p>The Tenant will use the Leased Premises for the construction of the buildings and improvements described in the development agreements between WT and GBC which contemplate the use of Block 3 as an academic building, Block 5 for a student residence and recreational centre and Block 4 as part of the connected underground parking facility under Blocks 3 and 5. GBC would be entitled to use the Leased Premises for any purpose (i) that GBC is entitled to undertake under its constating documents as of the commencement date of the Lease, and (ii) that is permitted under the applicable zoning, subject to a list of prohibited activities. No residential development, with the exception of student and faculty residences, will be permitted. Student residences may be used for non-students during non-peak academic periods. No free-standing entertainment, industrial, commercial or office buildings will be permitted.</p>
<p>Landlord's Reserved Easements:</p>	<p>The Landlord will reserve all easements necessary for the City to protect its municipal services within the Leased Premises, including municipal water services. The Landlord will reserve a structural support easement in respect of the underground parking facility which provides structural support for the public street between Blocks 3 and 5. The Landlord will reserve an easement for public vehicular and pedestrian access along the east 18 metres of Block 5. Any other easements that are necessary will be reserved by the Landlord.</p>

Underground Parking Facility	The Tenant will covenant to construct and maintain that portion of the underground parking facility that supports the overhead public road to certain standards and on terms acceptable to the City.
Financial Capacity:	Prior to making the building permit application, the Tenant shall provide reasonable evidence to the Landlord of the manner in which the construction pertaining to the building permit will be financed.
Subleases / Assignments:	The Tenant will not be permitted to sublease or assign the Lease, or any interest in the Leased Premises, unless the Tenant has obtained the prior consent of the Landlord not to be unreasonably withheld or delayed. Notwithstanding the foregoing, as long as GBC is remaining fully liable for the payment of rent and the performance of lease obligations GBC may sublet portions of the Leased Premises from time to time without the consent of the Landlord, including: a sublease of the underground for the GBC/WT parking structure; sublease to the operator of the student residence; subleases within the student residence for residential accommodation; subleases of ancillary commercial space; leasehold and subleasehold mortgages; and an assignment of the Lease to Waterfront Toronto or Waterfront Toronto taking possession of the Leased Premises in accordance with the development agreements between Waterfront Toronto and GBC.
Specific Covenants in respect of Redpath Sugars	The Lease will contain Tenant covenants and obligations in respect of various matters arising out of zoning and official plan settlement agreements among Redpath Sugars, the City, Waterfront Toronto and TEDCO. The Lease shall contain the warning required under the zoning by-law in respect of noise, odours, dust and light

	emissions from the Redpath facility. The City will use commercial best efforts to remove the minutes of settlement registered as Instrument No. AT1505760 from the Leased Premises as soon as practically possible.
Unfulfilled builder obligations under the Development Agreements between Waterfront Toronto and George Brown College	The Landlord may require the Tenant to enter into an Amending Lease Agreement to include, as Tenant obligations under the Lease, any unfulfilled builder obligations under the development agreements.
Ownership of Buildings / Surrender	The Tenant will agree to develop the Leased Premises as contemplated in the development agreements with Waterfront Toronto. The buildings will be the property of the Tenant throughout the Term, provided that at the expiry of the Term, the buildings will automatically become the property of the Landlord unless the Landlord directs the Tenant to demolish any buildings and restore the lands in a vacant state, in which case only those buildings for which the Landlord wishes to take ownership (if any) will remain on the lands. The Tenant will be responsible to maintain the Leased Premises and leave the Leased Premises in a safe condition.
Environmental:	The Tenant will be required to comply with all environmental laws. The Tenant will be responsible for any hazardous materials in, on or under the Leased Lands which were released or otherwise produced by the Tenant or by those persons for whom the Tenant is responsible. The Landlord will remain responsible for pre-existing environmental conditions.
Default:	The Lease will contain usual events of default and, in addition, if the development agreements between Waterfront Toronto and George Brown College are terminated and Waterfront Toronto does not take an assignment of the Lease. The Lease will

	contain usual remedies of the Landlord in the event of default, including but not limited to re-entry, reletting and / or terminating the Lease, subject to any prior rights of a leasehold mortgagee.
Indemnity:	The Tenant will agree to manage all development and construction activity on the Leased Lands, to construct in accordance with the requirements of the Lease, the WT development agreements and all applicable land use control bylaws and indemnify the Landlord against any claim arising in respect of the possession of the Leased Lands.
Insurance:	The Tenant shall obtain adequate insurance of all types in amounts and form satisfactory to the City's Risk Management Division.
Dispute Resolution:	Disputes between the parties as to calculation of Basic Rent shall be resolved by an arbitration process set out in a schedule to the Lease.
Administration and Management of Lease	The Chief Corporate Officer, his successor/designate, shall administer and manage the Lease, including the provisions of any consents, approvals, notices, notices of termination, provided the CCO may refer consideration of such matter to City Council for determination.

Attachment 3

EAST BAYFRONT – JOINT FACILITY PROGRAMMING ASSESSMENT

EXECUTIVE SUMMARY

(i) Background

- East Bayfront is one of the precincts **Waterfront Toronto** is creating along the Toronto waterfront. **George Brown College** has embarked on the creation of a new campus within the East Bayfront community. The waterfront campus will be located on a 0.83 hectare (two-acre) parcel of land located on the south side of Queens Quay Boulevard between Lower Jarvis and Lower Sherbourne Streets. The waterfront campus will house the College's Centre for Health Sciences, its first student residences and a recreational/fitness complex at the base of the residence building. It is projected that the new campus will open in 2011.
- **Waterfront Toronto, George Brown College** and the **City of Toronto** retained **LeisurePlan International Inc.** to undertake a programming assessment for providing a municipal "recreation" facility in conjunction with the George Brown College facilities in the East Bayfront area.
- This report presents a summary of the findings and conclusions of the assessment of the opportunity for collaboration between the City of Toronto and George Brown College with regard to the development and operation of indoor facility components to accommodate each organization's recreational service provision objectives. A recommended strategy for facility development and shared use is identified. The strategy should be considered as a preliminary guideline to facilitate informed decision making concerning potential future collaboration.
- It should be understood that the assignment was undertaken on a "high level", conceptual basis of investigation. Further and more detailed planning will be required if there is consensus to proceed.

(ii) Municipal and College Programming Requirements

- The opportunity for shared use of facilities between the Municipality and George Brown College (GBC) involves consideration of each organization's proposed range of programs, activities and services that may be accommodated in a new facility as part of GBC's waterfront campus.
- The Municipality's objective is to develop community facilities to support municipal programming related to a range of indoor aquatic, recreational, community, social and leisure activities for the East Bayfront and surrounding communities. These types of activities are traditionally accommodated in indoor aquatic centre and community centre types of facilities.

- George Brown College’s objective is to develop an Athletic and Recreational facility to accommodate varsity sports, recreational, social and wellness programs, activities and services provided to its students. A unique aspect of the College’s planning for the new waterfront campus would see academic programs related to Health Sciences positioned both physically and philosophically to take advantage of the new Athletic and Recreation facility.

(iii) Assessment Considerations

- The starting point for the assessment involved establishing a preliminary outline framework for each organization of: service delivery and facility operation parameters, the target market groups for service delivery, the types of programs and activities that may be provided and the types and size of indoor facility components required to accommodate them.
- The preliminary outline framework was established through discussions with representatives of both the City and the College. The result was the identification of three separate Building Types and a description of their program and activity spaces and intended uses and users.
- The implications of trends occurring in the industry with regard to: participation in sport, recreation and lifestyle activities, the planning and design of community recreation, sport, College facilities and wellness facilities, the delivery of these types of services and facility operation were incorporated into the establishment of the facility space programmes as well as the subsequent assessment of shared use potential.
- Next, the assessment of the potential for collaboration and shared use between the Municipality and GBC examined their individual requirements, the range of functional components proposed and their respective user capacities. The assessment included consideration of the following factors:

• Organization compatibility	• Organizational capabilities
• Service provision philosophy	• Range of types of services to be provided
• Intended users and uses	• Scheduling of service provision
• Operational practices, rules, regulations, procedures	• Facility user capacities
• Loading and peak use times	• Compatibility of facility requirement
• Support of discrete operational cost accounting	

- The assessment identified those facility components that had potential for some degree of shared use between GBC and the Municipality. The assessment also identified the functional components of each Building Type that became redundant or unnecessary as a result of the potential for shared use.

(iv) Recommended Facility Development and Shared Use Strategy

- A recommended facility development and shared use strategy was established based on the findings and conclusions of the assessment of opportunities for shared use. The strategy included a refinement to each proposed Building Type with respect to functional components and space allocations based on the opportunities for rationalization of the facility requirements for both GBC and the Municipality associated with opportunities identified for shared use.
- The recommended facility development and shared use strategy involves the development of four facility components. The extent of shared use associated with each facility component varies, however they are proposed to be perceived and positioned as an integrated, multi-featured facility complex offering a unique and exciting mix of opportunities for College and public users of all ages and abilities to participate in a wide range of programs and activities. They are also conceived as a significant public focal point, a destination for users as well as visitors to the vicinity, a “living centre” within the College’s waterfront campus.
- The recommended facility development and joint use strategy involves a total of 77,170 NSF (96,460 GSF) of multi-purpose indoor facility space comprised of the following components:

Common Lobby:	3,500 NSF
Municipal Community Aquatic Centre:	28,610 NSF
Municipal Community Centre:	3,975 NSF
<u>College Recreational, Athletic and Wellness Centre:</u>	<u>41,085 NSF</u>
Total NSF (80%):	77,170
Total GSF (100%):	96,460

- The recommended collaboration and shared use strategy results in a reduction in total net new facility construction in the order of 18,320 NSF (22,900 GSF) compared to development of the facility requirements on a separate stand-alone basis.
- The order of magnitude of potential shared use of the total recommended facility development is significant. It is important to understand however that the extent of the “shared use” of the facility components may indeed be greater than assumed in this assessment.

(v) Operational Considerations

- The recommended shared use operational framework reflects a simple, straightforward allocation of roles and responsibilities based on the programming focus and skills of each organization relative to each proposed facility component as follows:

<u>Facility Component</u>	<u>Facility Management and Operation</u>	<u>Program, Activity and Service Delivery</u>
Common Lobby/Reception/Access Control	Shared responsibility: GBC and Municipality	Shared responsibility: GBC and Municipality
Municipal Community Aquatic Centre	Municipal responsibility	Municipal responsibility
Municipal Community Centre	Municipal responsibility	Municipal responsibility
College Athletic, Recreation and Wellness Centre	GBC responsibility	GBC responsibility

(vi) Benefits Associated With the Proposed Collaboration

The proposed facility complex will be designed, constructed and operated in a manner that results in real, tangible benefits to both the Municipality and George Brown College in relation to facility development, facility operation, service provision and organizational competencies. The following summarizes some of the key benefits of the proposed shared use facility development and operation strategy.

- The collaboration strategy creates a significant destination attraction and public activity generator within East Bayfront.
- The collaboration strategy creates an opportunity to provide municipal aquatic service in a highly desired location, which the City would otherwise be unable to do.
- The financial costs associated with the *development* of the proposed facility complex should be less than those associated with the development of separate facilities. Shared use of a number of functional areas reduces the total amount of facility space required to accommodate all of the identified functions of both the Municipality and George Brown College. This will result in a cost savings for facility development compared to that associated with the development of separate facilities.
- The financial costs associated with the *operation* of the proposed facility complex should be less than those associated with the operation of separate facilities. The shared-use approach also establishes opportunities for operational cost sharing for facility operational expenditures associated with the shared use areas and establishes opportunities for the generation of increased operational revenue associated with facility use and program participation.
- The collaboration strategy will result in expanded and improved service provision to both Municipal and College users. The collaboration strategy offers a unique opportunity for both parties to leverage their assets and resources to realize a more diverse, sophisticated, and comprehensive range of facility activity areas and program, activity and service offerings than either would be capable of on their own including gymnasium space, fitness centre, and aquatic facilities. The collaboration offers significant opportunities for expanded community use, instructional program participation opportunities and drop-in use for residents of all ages and abilities (children, youth,

teens, adults, seniors, special needs, families) in aquatics and all other municipal service areas.

- The collaboration strategy provides the City and the College an opportunity to rationalize the use and utilization of existing and proposed future resources. In particular the development of the Municipal Community Aquatic Centre facility in association with the GBC waterfront campus would allow for a revised plan of community facilities for the West Donlands community, which had previously been proposed to include a much smaller scale municipal aquatic facility component as part of the development of a community centre.
- The collaboration strategy will result in improved service planning capacity for both organizations to respond to changes in demand for services in the future. The range, type and size of the functional facility areas will allow a high degree of flexibility in terms of future use and utilization allowing both parties to respond to changing needs and activity participation patterns. The shared-use approach supports the development of sustainable facility infrastructure with long term operational viability.
- The collaboration strategy supports the development of organizational competencies and capabilities associated with specific aspects of facility development, facility management and operation, service delivery and business planning.
- The collaboration strategy allows each partner to benefit from the experience, specific skills and expertise of the other.
- The collaboration results in more efficient space utilization and potential for increased levels of facility use.

(vii) Recommendation

- The collaborative strategy recommended in this assessment offers a unique opportunity for both the City and George Brown College. It represents a comparatively straight forward facility development and operational approach based on significant benefits to each of the potential for shared use.
- It is recommended that the City and George Brown College proceed to the next step in the collaboration process and enter into an initial agreement (a Memorandum of Understanding) based on the facility development and shared use strategy outlined in this report. The purpose of the “initial agreement” is generally to outline the terms and conditions of the initial agreement between the parties that are related to the proposed facility, to identify the “higher level” shared outcomes and principles which will guide future discussions and negotiations on the specific collaborative initiative as well as creating an understanding of the key agreement components for legal, design, construction, capital funding and operations and to express the intentions of the parties in advance.

Attachment 4

LETTER OF INTENT

This letter sets out the basis upon which George Brown College (“GBC”), the City of Toronto (“City”) and the Toronto Waterfront Revitalization Corporation (“WT”) agree to proceed in good faith to negotiate and endeavour to settle an agreement (the “Agreement”) related to the design, development, management and operation of a multi-purpose and shared-use recreational facility complex to be located within the southerly block of the proposed George Brown Waterfront Campus and including four facility components as identified in the “East Bayfront Joint Facility Programming Assessment” Report as prepared by LeisurePlan International Inc. dated September 2008, namely:

- A Municipal Community Aquatic Centre facility component to include a 6 lane 25 m rectangular pool, a leisure recreational pool, a therapeutic pool and supporting functional areas. The Municipal Community Aquatic Centre facility component is estimated to be in the order of magnitude of 29,000 NSF in area;
- A Municipal Community Centre facility component to include multi-purpose program space, kitchen and supporting functional areas. The Municipal Community Centre facility component is estimated to be in the order of magnitude of 4,000 NSF in area;
- A College Recreational, Athletic and Wellness Centre component to include a triple gymnasium, varsity sports change and team rooms, a fitness centre, an aerobics/group fitness studio, multi-purpose program space/studios, a health promotion centre, dry change rooms and supporting functional areas. The Recreational, Athletic and Wellness Centre component is estimated to be in the order of magnitude of 41,100 NSF in area; and
- Common facility space associated with public lobby, reception and access control, estimated to be in the order of 3,500 NSF in area.

It is acknowledged that the anticipated relationship between the parties provides for GBC to deliver health, recreational, fitness and academic services to its users and for the City to deliver aquatic, recreational and leisure services to the community. The relationship recognizes that each party has responsibilities and associated obligations and that from time to time the scope of the services offered to either the community or GBC users may change.

In developing such an Agreement, it is understood and agreed that the City will be responsible for the management, operation and programming of the Municipal Community Aquatic Centre facility and the Municipal Community Centre facility. GBC will be responsible for the management, operation and programming of the College

Recreational, Athletic and Wellness Centre facility component and that both the City and GBC will be jointly responsible for common areas including the public lobby, reception and access control area. The role of WT will be to cooperate with both parties in the design and development of the facility, the creation of the Agreement and funding in accordance with WT's obligations for recreational facilities in East Bayfront. However once the facility is constructed and operational, WT will have no further involvement.

On a going forward basis, the parties will establish a representative working group which will work collaboratively towards the establishment of the Agreement. All parties will endeavour to work cooperatively to ensure that the size, scope and relationships of the common and shared use program spaces are sufficient and efficient to support shared/joint use where agreed to.

It is understood that the Agreement will incorporate provisions whereby:

- The City will provide opportunities on a consistent and regular basis, based on an agreed to schedule, for the use of the Municipal Community Aquatic Centre component by GBC users;
- GBC will provide opportunities on a consistent and regular basis, based on an agreed to schedule, for municipal use of designated shared use areas within the College Recreational, Athletic and Wellness Centre facility component. It is understood that this may include, but not be limited to, use of gymnasium, fitness centre, multi-purpose space and studios and change rooms to accommodate municipal recreation-leisure programs and activities; and
- The terms and conditions associated with shared facility use between the City and GBC, including the type of use, the timing of use and cost associated with use, will be determined through negotiations between the City and GBC and established in the Agreement. The Agreement will provide a process to support shared use of designated facility areas and components in the long term.

It is further understood that the Agreement will include:

- The terms and conditions of governance of the building components;
- The basis for capital financing of each facility component;
- The establishment of a mechanism and funding strategy for the purpose of operational cost sharing based on an agreed shared use model;
- The establishment and allocation of responsibilities for the care and maintenance of external grounds, if appropriate, and major facility infrastructure;
- The establishment of a mechanism and funding strategy for the purposes of revitalization and/or refurbishment of exclusive use and shared use spaces;

- The establishment of a “Joint Operations Management Committee” to review policies, procedures, standards and responsibilities to ensure the efficient use of space, community access and shared use;
- The establishment of responsibilities for furnishing and equipping exclusive and shared use and common spaces;
- Provisions for the long term sustainability of each facility component; and
- The establishment of a “joint working committee”, which will have defined roles and responsibilities with regard to facility planning, design and development.

All parties agree on the importance of:

- the provision of desired recreation opportunities for Toronto residents and GBC users;
- providing a high quality and range of programs and facilities for the benefit of the community and GBC users;
- the equitable provision and access to programs and services in terms of economic status, age, gender, ability, race and religion;
- working together to establish a financially self sustaining multi-purpose and shared use recreational facility complex;
- ensuring that, where possible, the respective policies and objectives of each party are reflected in the joint use agreement including the creation of opportunities for youth employment, leadership and development;
- co-operation in the planning, design, construction, management and operation of the facility components and the delivery of programs and services to the community and GBC users;
- ensuring a progressive approach to the long-term sustainability of all facility components and their future operations; and
- the use of flexible terms that are able to deal with unforeseen future issues.

GBC, the City and WT agree that the development of this facility complex and the shared use of facility components do not preclude either party from running similar programs and services elsewhere in the City. Both parties agree to endeavour to consult with each other regarding future plans for similar facility based health, fitness, aquatic and

recreation programs/services that could potentially impact the proposed recreation facility.

This Letter of Intent is not intended to be or create a binding agreement or a complete statement of the terms and conditions of the proposed Agreement, nor is it intended to be or create any legally enforceable obligations of the parties.

Dated in the City of Toronto this _____ day of _____, 2008.

CITY OF TORONTO

Per: _____
Name:
Title:

Acknowledged and agreed this _____ day of _____, 2008

GEORGE BROWN COLLEGE

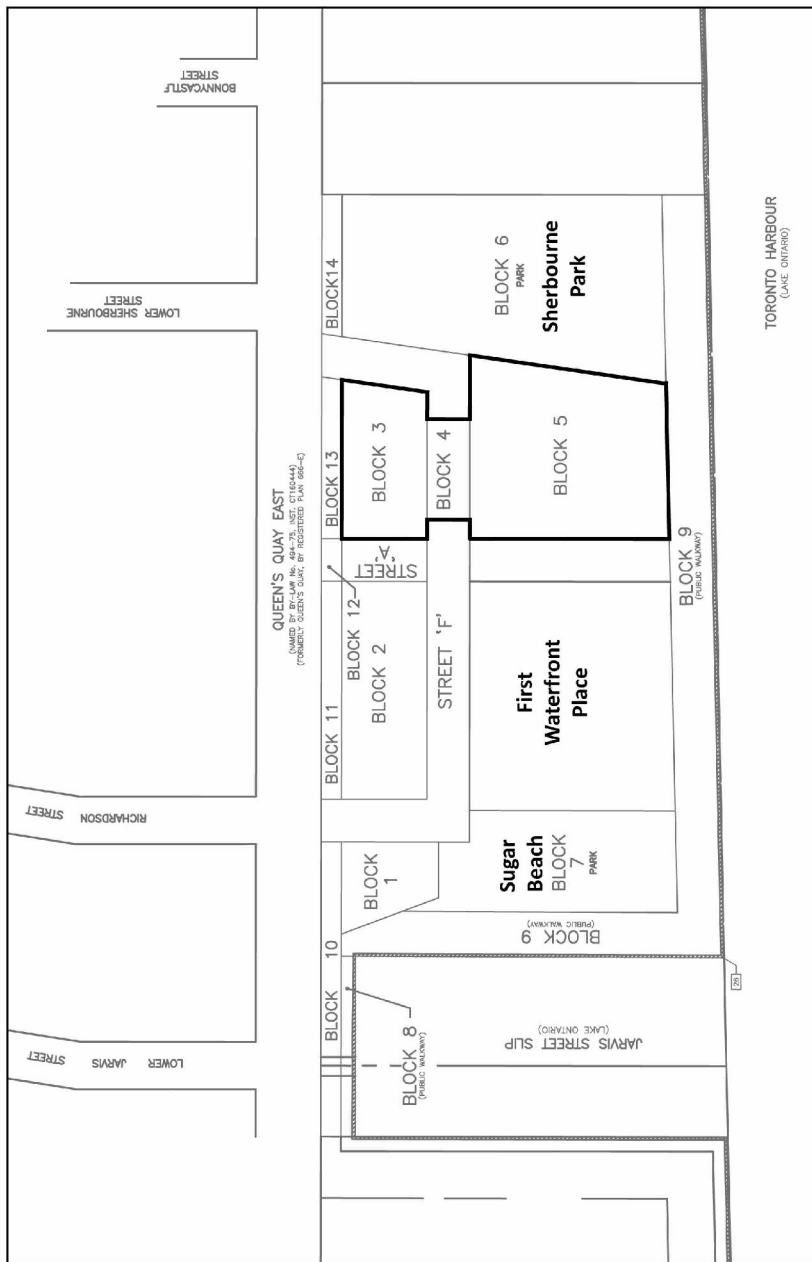
Per: _____
Name:
Title:

**TORONTO WATERFRONT
REVITALIZATION CORPORATION**

Per: _____
Name:
Title:

Attachment 5

East Bayfront Draft Subdivision Phase I



Legend:

- George Brown College Site:
- Block 3: Academic facilities
- Block 4: Underground parking
- Block 5: Student residence

Figure 1