



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**Acquisition of Provincial Lands
Southeast Corner of Black Creek Drive and Eglinton
Avenue West**

Date:	January 29, 2008
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 12 York South-Weston
Reason for Confidential Information:	This report is about a proposed land acquisition by the City and confidential staff instructions.
Reference Number:	P:\2008\Internal Services\F&re\Gm08013F&re – (AFS 3284)

SUMMARY

Real Estate Services seeks authority for the City of Toronto to acquire lands at the southeast corner of Black Creek Drive and Eglinton Avenue West, shown as Parts A and B on Appendix “B” for the proposed York Community Centre facility to be located on Part A.

In 1960, the former Corporation of the Township of York sold the property to, and leased it back from, Her Majesty The Queen in Right of the Province of Ontario represented by The Minister of Transportation for Ontario.

Negotiations to repurchase the property have been ongoing with MTO’s agent, Ontario Realty Corporation (“ORC”), since December 2006. The agreement of purchase and sale cannot be finalized until the results are known of ORC’s re-submission to Provincial Treasury Board/Cabinet to remove an objectionable “*Move Ontario 2020 Transit Proposal*” directive in Cabinet’s earlier approval. However, all interested parties are supportive and it is anticipated that this will occur shortly. Appendix “A” describes the terms of the proposed acquisition which are considered fair and reasonable.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. authority be granted to enter into an Agreement of Purchase and Sale with Her Majesty The Queen in right of the Province Of Ontario represented by the Ministry of Transportation for Ontario for the acquisition of the property located at the southeast corner of Black Creek Drive and Eglinton Avenue West, designated as Parts 1 to 21 inclusive on Plan 66R-23258 in the City of Toronto (the “Property”), substantially on the terms outlined in Appendix “A” and on such other or varied terms as are satisfactory to the Chief Corporate Officer in consultation with the General Manager of Parks, Forestry and Recreation, and in a form satisfactory to the City Solicitor;
2. authority be granted to the Chief Corporate Officer in consultation with the General Manager of Parks, Forestry and Recreation to negotiate and approve such other related agreements and documentation deemed necessary or desirable by them to acquire the Property, in a form acceptable to the City Solicitor;
3. an exemption be granted from the policy in effect which would preclude the City from acquiring lands that are either not clean or remediated to Ministry of Environment (Ontario) standards;
4. the City Solicitor be authorized to complete the transaction on behalf of the City, including making payment of any necessary expenses, amending the closing date and the due diligence or other dates to such earlier or later date(s), and amending and/or waiving terms and conditions in favour of the City, all on such terms and conditions as she may from time to time consider reasonable;
5. Council adopt the Confidential Recommendations in Attachment 1 in this report;
6. the Confidential Information in Attachment 1 remain confidential; and
7. the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

FINANCIAL IMPACT

Funding for this acquisition and associated costs is available in the 2008 Capital Budget for Parks, Forestry and Recreation. Details are provided in the confidential attachment.

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

DECISION HISTORY

At its meeting in September, 2006, City Council adopted the following Motion:

“City Staff should be authorized to negotiate a purchase price and other terms and conditions appropriate for the acquisition of the provincial lands and report to Council at the earliest opportunity.”

In December, 2006 City staff met with representatives from ORC to facilitate the transfer of the Property. ORC confirmed that the Property would be transferred for nominal consideration on the condition that the City take the Property “as is, where is” and release and indemnify the MTO for any past/future environmental liabilities.

ISSUE BACKGROUND

The Property was recommended as the best location for a new community centre to serve the York area based on a needs assessment and feasibility study completed and approved by Council in 1999, and supported by staff who conducted work on facility siting completed in 2001.

In September 2004, Council adopted a staff report which recommended the York facility as first priority among community centre projects to address in 2005-2009. In October, 2005, Council adopted the Toronto Strong Neighbourhoods Strategy, which included the Weston-Mount Dennis neighbourhoods in York as a priority for investment.

COMMENTS

The ORC requires some non typical conditions in the agreement of purchase and sale that it deems fundamental if it is to sell the Property to the City. These non typical conditions are further described in Appendix “A”, such as; (i) a perpetual City covenant that limits use of the property as a community centre and (ii) a first right of refusal if the City wants to sell the property.

Although the negotiations with ORC are ongoing, the province is only willing to sell the property if the City accepts these non typical terms.

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SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix A - Summary of Terms and Conditions
Appendix B– Plan of Property

APPENDIX “A”

Major Terms and Conditions

Owner:	Her Majesty the Queen in Right of the Province of Ontario Represented by the Minister of the Transportation for the Province of Ontario (“Vendor”)
Purchaser:	City of Toronto
Location:	South-east Corner, Black Creek Drive & Eglinton Avenue (see Appendix “B”)
Legal Description:	All of Block A, Plan 5917, City of Toronto, Formerly City of York, Shown as Parts 1 to 21 inclusive on Plan 66R-23258, (MTO Plan P-3051-0073), Being All of P.I.N. 10499-0032(LT)
Approximate Lot Size:	7.4 hectares (18.2 acres)
Improvements:	3 Parking Lots, Access Road and Baseball Diamond
Zoning:	“G” – Green Open Space District (community centre is a permitted use)
Official Plan:	Parks and Mixed Use
Appraised Value:	\$890,000 appraised value (2007)
Irrevocable Date:	30 days, subject to a further 30 days at Vendor’s sole discretion.
Due Diligence:	To be determined
Closing Date:	90 business days following execution of an agreement of purchase and sale by both Vendor and City unless otherwise agreed in writing
Purchase Price:	\$1.00 nominal consideration plus applicable taxes and registration fees
Deposit:	NIL
Conditions:	Property and its improvements are to be acquired on an “as is, where is” basis including title, condition of the soil, subsoil, ground and surface water, hazardous substances or

contaminants, compliance with environmental laws or any other environmental matters, or the use to which the Property may be put and its zoning.

Property will only be used for a community centre or other publicly-funded initiative

Release and indemnity by City in favour of the Vendor in connection with the Property

In the event of a proposed sale of the Property by the City within 20 years from the date of closing the Vendor has right to re-acquire Property, at its option, for either \$1.00, or 100% of any profit (i.e., less capital improvements made by City) on a bona fide arms length sale or proposed sale of Property by the City or any affiliated company. Further negotiations are required to clarify the nature and extent of permitted deductions and exceptions

COSTS:

Payment to Vendor:

Sale Price: \$ 1.00

City's Closing Costs (approximately):

Land Transfer Tax \$ Nominal

Registration Costs \$ 100.00

Total Closing Costs \$ 100.00

Total Acquisition Costs of City \$ 100.00

GST on Purchase Price \$ Nominal

APPENDIX B
The Property

