

Amending Report on Proposed Land Exchange at 444 Yonge Street

Date:	November 3, 2009
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 27 – Toronto Centre - Rosedale
Reference Number:	P:\2009\Internal Services\F&re\Gm09108F&re – (AFS 10884)

SUMMARY

This report is to seek approval for an amendment to the terms of a transaction involving a land exchange at a development site municipally known as 444 Yonge Street between the City and The Residences of College Park Tower III Inc. and The Residences of College Park Tower IV Inc. (the “Purchaser”). The land exchange agreement was authorized by City Council at its meeting held on July 15, 16 and 17, 2008 (Item GM16.9).

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council delete and replace paragraph 3 of “Other Conditions” on Appendix “A” of Item GM16.9, adopted by City Council at its meeting held on July 15, 16 and 17, 2008, with the following:
 - (3) Purchaser and any subsequent owner of the adjoining development site to continue to maintain and repair Parts 1 & 2 (the “Walkways”) on Sketch No. PS-2008-026 in perpetuity and to provide sufficient evidence of insurance coverage, including naming the City as an additional insured, satisfactory to the Deputy City Manager and Chief Financial Officer, and in relation to the walkway shown as Part 2, to provide an indemnity to the City against any claims.

Financial Impact

There are no financial implications as a result of this amendment.

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

DECISION HISTORY

At its meeting held on July 15, 16 and 17, 2008, City Council adopted Item GM16.9 of the Government Management Committee regarding a land exchange transaction between the City and the Purchaser. The report can be found at:

<http://www.toronto.ca/legdocs/mmis/2008/gm/bgrd/backgroundfile-14630.pdf>

<http://www.toronto.ca/legdocs/mmis/2008/gm/bgrd/backgroundfile-14631.pdf>

<http://www.toronto.ca/legdocs/mmis/2008/gm/bgrd/backgroundfile-14632.pdf>

ISSUE BACKGROUND

One of the conditions of the land exchange approved by City Council requires the Purchaser to continue to repair and maintain and to provide an indemnity to the City against any claims related to the lands the Purchaser is to convey to the City. The lands are currently used for walkways leading to a City-owned park and shown as Parts 1 and 2 on the attached Sketch No. PS-2008-026.

The Purchaser has advised that providing the required indemnity as it relates to Part 1 (the “Bay Street Walkway”) is proving to be unduly onerous and impeding their ability to move forward with their development of a 75-storey mixed commercial and residential building at 444 Yonge Street. The Purchaser has concerns that imposing an indemnity obligation on the “Bay Street Walkway”, which is not adjoining 444 Yonge Street, after the unit sales of the condominium development have been entered into, could create more complications in completion of those sales.

COMMENTS

The Purchaser will be required to provide satisfactory evidence of insurance, including adding the City as an additional insured, and comply with such other terms as may be required by the Deputy City manager and Chief Financial Officer. In addition, in the

event of a default by the Purchaser in its obligations to maintain and repair the lands, the City would not be precluded from pursuing a claim for damages or other common law remedies.

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SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix "A" – Sketch No. PS-2008-026