

Attachment 4 – Major Terms of Project Agreement

Bayside – Project Agreement Term Sheet

August 11, 2010

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| PARTIES | - Hines Canada Management Company ULC (Development Partner) - Waterfront Toronto |
| TIMING | To be executed on completion of negotiations with the Development Partner |
| PURPOSE | To govern the overall relationship between the Development Partner and Waterfront Toronto for the development of Bayside. It includes rights and obligations of the parties that are generic to the development, and covers the full time period of the development. |
| CONSIDERATION | |
| <i>Up Front Payment</i> | <p>\$2,000,000 after approval of the deal by City Council and execution of the Land Development Agreement (LDA) by the City, which will be held in escrow until the earlier of:</p> <ol style="list-style-type: none"> i. project completion ii. delivery by WT of its Long-Term Public Transit, infrastructure and public realm obligations under the Project Agreement (PA); and iii. a Development Partner Event of Default that is not remediated after cure periods <p>The Up Front Payment will be returned to the Development Partner in the event Waterfront Toronto defaults or the LRT is not operational by the LRT Outside Date unless all parcels were successfully leased or sold with no diminution in velocity or revenues.</p> <p>The Up Front Payment secures the development rights for the Bayside project and affirms the Development Partner's commitment to the project.</p> |
| DEVELOPMENT OBLIGATIONS OF WATERFRONT TORONTO | |
| <i>Environmental</i> | <p>Waterfront Toronto has primary responsibility and oversight for environmental matters and process requirements will be included in the PA, consistent with the March, 2006 MOU. In addition, Waterfront Toronto will complete remediation/risk assessment work and file Records of Site Condition (RSC) for all Sites where an RSC can be obtained in a time period and at a cost that is commercially reasonable, with the exception of excavation activities required to complete and register an RSC, which will be the responsibility of the Site Developer (subject to Waterfront Toronto oversight). Sites to which an RSC cannot be obtained in a time period and at a cost that is commercially reasonable will not be developed.</p> <p>Waterfront Toronto will deliver reliance letters addressed to the Development Partner and the City for all environmental and geotechnical audits and reports that are issued to Waterfront Toronto for the Bayside Lands.</p> |
| <i>Planning Act (Section 37 and 42) Requirements</i> | Waterfront Toronto shall satisfy the following Section 37 requirements of the East Bayfront zoning by-law: |

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| | <ul style="list-style-type: none"> • Local infrastructure contribution (\$69.86 per m²) • Park land dedication |
| <p><i>Servicing</i></p> | <p>Waterfront Toronto shall provide municipal services required for construction (water and temporary hydro) to the perimeter of the Bayside Lands by the actual closing date for the first development parcel. For municipal services required for occupancy (hydro, water, sanitary and stormwater), such services will be available or under construction by the first closing date with projected completion dates satisfactory to the Development Partner in its sole discretion. Otherwise the Development Partner may elect to defer applicable Closing Dates, (but only until such time as the Development Partner can be assured in its sole discretion of timely servicing capacity) and be entitled to the default remedies available in case of WT events of default.</p> <p>Prior to the start of marketing for the first building, Development Partner will review the proposed development schedule and municipal services schedule with WT: if WT cannot give the Development Partner reasonable assurance, satisfactory to the Development Partner in its sole discretion, that the municipal services required for occupancy (hydro, water, sanitary and stormwater) will be completed by the scheduled first occupancy date, the Development Partner may elect to :</p> <ol style="list-style-type: none"> 1. Defer the marketing effort 2. Proceed with marketing, but agree that the first closing date will be moved back by up to 6 months, and therefore in the marketing effort, the condo delivery date in the condo contracts would also be moved back by up to 6 months 3. Terminate the first parcel Development Agreement (DA)(and applicable Agreement of Purchase and Sale (APS) or Ground Lease (GL)) or all agreements at its choosing - and be paid for all its out-of-pocket costs including salaries of Hines Canada staff allocated to the project, plus the Up Front Payment. <p>In case of a delay in closing date, all Closing Dates will be reset accordingly, or up to two years, if reasonably required by the Development Partner to allow for remobilization.</p> <p>If the Development Partner proposes to accelerate the first closing date, Waterfront Toronto will use reasonable commercial efforts to deliver services to accommodate the accelerated schedule.</p> <p>For District Energy, a plant with sufficient capacity for a given phase must be operational by the time schematic design has been completed for that phase, or the Development Partner (in its sole discretion) must be given other assurances that the District Energy system will be available in time for occupancy of that phase. Otherwise, the Development Partner will have the right to opt out of the District Energy system for that particular phase.</p> |

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| | <p>If a suitable site for a district energy plant to service Bayside cannot be found outside the Bayside site, Waterfront Toronto reserves the right to buy a suitable space within a Bayside building (at cost) for the purposes of constructing and maintaining such a plant, as long as such space does not reduce the marketable density of the project or cause a delay in the delivery of the office or residential space. The location and nature of the space will be determined in consultation with, and subject to the approval of, the Development Partner acting reasonably. The Development Partner acknowledges that the City will not permit a freestanding plant in Bayside or a location on or below publicly-owned infrastructure .</p> <p>Waterfront Toronto may require space within a Bayside building to house infrastructure such as hydro vaults. The objective is to minimize the amount of infrastructure that sits within the public realm. Waterfront Toronto reserves the right to buy space suitable to house such infrastructure (at cost). The location and nature of the space will be determined in consultation with, and subject to the approval of, the Development Partner acting reasonably.</p> |
| <i>Community Centre Space</i> | <p>WT reserves the right to purchase (at cost) up to 25,000 square feet in a building within the Bayside site to accommodate a community and recreation centre, as long as such space does not reduce the marketable density of the project or cause a delay in the delivery of the office or residential space. The specific location will be determined in consultation with the City and Development Partner and subject to the Development Partner's approval acting reasonably.</p> |
| <i>Public Realm Improvements</i> | <p>Waterfront Toronto will secure the approvals for the implementation of the Queens Quay linear park and the water's edge promenade between Sherbourne Park and Parliament Slip (On-Site Waterfront Toronto Designed Public Realm Improvements) by the first closing date. If the approvals are not in place by the first closing date, Waterfront Toronto will return the Up Front Payment and Development Partner may elect to defer all closing dates until the approvals are secured.</p> <p>The Development Partner, under the direction of WT, will oversee the design coordination and construction of the On-Site Waterfront Toronto Designed Public Realm Improvements, Aitken Place Park Improvements, Services and Streets at Waterfront Toronto's cost and WT will contract for the work. For the On-Site Waterfront Toronto Designed Public Realm Improvements, Waterfront Toronto will pay the Development Partner a Project Management Fee of 4.5% of the development budget (not including the project management fee) plus up to an additional 1.5% based on meeting the development budget and schedule set out when the construction contract is let plus reasonable out-of-pocket expenses. For all other On-Site Public Realm Improvements, Waterfront Toronto will pay the</p> |

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| | <p>Development Manager a combined project management fee of 6%. The Development Partner will provide ongoing reporting and provide auditable open book accounting to confirm expenditures for the cost of the On-Site Waterfront Toronto Designed Public Realm Improvements. Waterfront Toronto must approve the budget before work begins. Waterfront Toronto will design and construct the Queens Quay Street Improvements and off-site service connections (collectively, the Off-Site Public Realm Improvements) at its own cost without project management by the Development Partner.</p> <p>Waterfront Toronto will deliver the Queens Quay Street Improvements and use reasonable commercial efforts to deliver the other Off-Site Public Realm Improvements by the LRT Outside Date, failing which WT will return the Up Front Payment</p> <p>WT will complete public realm improvements in a manner that minimizes the impact on Bayside residents and employees and with construction coordinated with the Development Partner.</p> <p>If requested by Waterfront Toronto, the Development Partner may also be required to construct such other improvements in the East Bayfront on the same terms and conditions outlined above.</p> |
| <i>Sherbourne Park</i> | <p>Waterfront Toronto will use reasonable commercial efforts to complete Sherbourne Park by December 31, 2010.</p> |
| <i>Public Transit</i> | <p>Waterfront Toronto will use reasonable commercial efforts to ensure sufficient public transit capacity (e.g. appropriately frequent bus service with connections to Union Station) is available for the Bayside site by July 31, 2013. If Waterfront Toronto cannot give reasonable assurance to the Development Partner that the LRT or equivalent service (Long-Term Public Transit) will be operating and providing service sufficient to meet the requirements of the site population by the initial occupancy date of the first phase, Development Partner may elect to defer future closing dates until such assurance can be provided.</p> <p>The requirement to close on office parcels and to complete the office product before the balance of the residential product will be waived until such time as Development Partner has assurance, in its discretion acting reasonably that the LRT will be operational and providing service sufficient to meet the requirements of the site population by the initial occupancy date of the first office phase. If the LRT is not in operation and providing service sufficient to meet the requirements of the site population by December 31, 2018 (LRT Outside Date), WT will return the Up Front Payment unless all parcels were successfully leased or sold with no diminution in velocity or revenues.</p> |

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| <i>Combined Sewer Outfall</i> | Waterfront Toronto will work with the Development Partner to coordinate the relocation of the existing CSO if required to implement the proposed design of the Bayside site. The CSO is considered an 'on-site municipal service' as defined under Infrastructure Development below. |
| <i>Infrastructure Development</i> | Waterfront Toronto will contract and pay for the cost of the removal of the existing structures (buildings, slabs and associated foundations), the completion of rough grading, and the design and construction of Aitken Place Park and on-site municipal services (all work within right-of-ways) which design and construction will be managed by the Development Partner subject to their Project Management Fee and open book accounting to confirm expenditures. The Project Management Fee will be 6% of the development budget, not including land or the project management fee, plus reasonable out-of-pocket expenses. Waterfront Toronto will have the right to approve the design and budget for such works and any material changes thereto prior to any work taking place. Development Partner commits to working with Waterfront Toronto to minimize the cost of onsite infrastructure including optimizing the phasing of such infrastructure based on the Developer Partner's development plan. |
| <i>Interim Parking</i> | Waterfront Toronto will provide access to certain agreed-to sites within Bayside on which the Development Partner has not yet closed for the purpose of providing surface parking sufficient to support the Ground Floor Animation space during the initial phases of development. Such access will be provided at nominal (\$1) cost, but will be subject to a license agreement with the City of Toronto. Any costs associated with creating the interim parking facilities (e.g. resurfacing, fencing) will be the responsibility of the Development Partner. The Development Partner acknowledges that the obligation outlined above is subject to confirming that the use contemplated is consistent with the existing zoning by-law. If not, WT will use reasonable commercial efforts to secure appropriate amendments to the zoning. |
| DEVELOPMENT OBLIGATIONS OF THE DEVELOPMENT PARTNER | |
| <i>Subdivision Plan</i> | <p>Waterfront Toronto, supported by the Development Partner, agrees to prepare a Plan of Subdivision in accordance with all of the Applicable Planning Documents.</p> <p>Development Partner acknowledges that, subject to changes arising from the regulatory process to register the plan of subdivision, it is intended that the concept plan attached as Figure 1 would provide the following pedestrian accesses:</p> <ul style="list-style-type: none"> • access from Bonnycastle Street to Sherbourne Common between residential buildings R1 and R2; • an east-west pedestrian connection at grade, aligned with the proposed internal streets through residential building R5; and • access from Small Street to the Parliament Slip through affordable housing buildings A1 and A2. |

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| | <p>In addition, access to the Water's Edge Promenade will be maintained at foot of Bonnycastle, Atiken Place and Small Streets.</p> <p>The parties acknowledge that the concept plan shown in Figure 1 may evolve through the plan of subdivision process which may change the number of sites and their precise locations. Any changes should maintain the following ratios:</p> <ul style="list-style-type: none"> ○ minimum of 20% of all GFA should be for employment uses ○ Sites sufficient to accommodate at least 20% of all residential units must be set aside for affordable rental housing <p>A material change in mix of use from what is outlined in the concept plan (Figure 1) would require approval from WT and the City at their discretion.</p> |
| <p><i>Completion Dates and Development Team</i></p> | <p>Development Partner will engage the members of the development team proposed in the RFP. Any development partners brought on for sites within Bayside must be approved by Waterfront Toronto, acting reasonably. The formal documents will include standards to gauge the acceptability of a prospective partner to WT and will include a list of pre-approved partners.</p> <p>Development Partner will close on the various sites by the dates provided in Schedule A (to be created and approved by the parties prior to execution of the formal agreements), subject to market conditions. For greater certainty, the Development Partner must complete site C1 prior to being able to close on site R5, and must complete site C2 prior to being able to close on sites R6 & R7. Waterfront Toronto and the Development Partner acknowledge that a schedule that addresses regulatory approvals, site servicing and closing dates by development site must be completed, in consultation with the City, prior to the execution of the PA. If any parcel has not been closed on by December 31, 2025 (the "Sunset Date"), then WT will have the right to terminate the Development Partner's development rights to any parcel it has not closed on and the Up Front Payment would be released from escrow. If the Development Partner wishes to extend any closing dates, it must do so in writing at least three (3) months prior to the then current closing date and provide reasonable justification, provided by an independent third party as it relates to market conditions. Waterfront Toronto will engage its own third party advisors and consider all such requests acting reasonably.</p> <p>If the Development Partner wishes to accelerate any closing dates, it may do so by giving at least three (3) months notice in writing prior to the proposed new closing date. Such requests will be approved unless the proposed new closing date would put Waterfront Toronto in default under the PA. Notwithstanding this restriction, Waterfront Toronto will work</p> |

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| | <p>cooperatively with the Development Partner to revise the delivery schedule for its obligations if such revisions are feasible.</p> <p>If the Development Partner does not close on a development site within nine (9) months of the applicable closing date (as adjusted), WT has the right to revoke the development rights for that particular site. If the Development Partner misses a second closing date by 9 months (as adjusted), WT has the right to revoke the development rights to all development sites not already owned by the Development Partner.</p> <p>If a closing date for a parcel is adjusted from the date in Schedule A (as amended), then all subsequent closing dates will be similarly adjusted.</p> <p>Any obligation of Development Partner under this PA related to a specific parcel will become the obligation of the Developer of said parcel after the Development Agreement for that parcel is executed, and no longer be an obligation of Development Partner under the PA.</p> <p>The Development Partner shall provide evidence satisfactory to Waterfront Toronto that the Site Developer has arranged construction financing for a Site prior to the closing date for such Site.</p> |
| <p><i>Mandatory Green Building Requirements</i></p> | <p>Development Partner shall ensure that each building in the Bayside Project achieves a minimum of LEED® Gold certification. The certification requirements for LEED® Gold will be those in effect per the Canada Green Building Council as of the date of the RFP submission deadline.</p> <p>Notwithstanding the previous sentence, the Development Partner will make reasonable commercial efforts to achieve the LEED Gold standards in effect as of the date of the closing for the particular site.</p> <p>The Development Partner also commits to meeting the Waterfront Toronto Mandatory Green Building Requirements and the mandatory City of Toronto Green Development Standards.</p> <p>The Development Partner agrees to work collaboratively with Waterfront Toronto in finding ways to exceed the standards outlined above to the extent such additional measures are commercially feasible.</p> <p>If the Development Partner opts out of District Energy for a particular site under the terms described under ‘Servicing’ above, then Development Partner will make best reasonable commercial efforts to increase the energy efficiency target for that site from 40% to 50% below MNECB given the greater design control and flexibility available.</p> |
| <p><i>Section 37 Agreement and other requirements of the EBF zoning by-law</i></p> | <p>Development Partner shall satisfy the 5% low-end-of-market (maximum unit size restrictions) Section 37 requirement of the East Bayfront zoning by-law (By-law No. 1049-2006) as defined therein.</p> |

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| | <p>Development Partner will also be responsible for the obligations related to lifting the holding ('h') designation except for those obligations specifically provided for herein.</p> |
| <p><i>Environmental Management</i></p> | <p>WT has developed an Environmental Management Plan with which the Development Partner must comply.</p> <p>Waterfront Toronto will be responsible for the incremental cost of managing the soils on the Bayside site above the Base Case cost, and will pay for such costs as part of the monthly draw process. The Base Case cost will be defined as the cost of managing and disposing the soil from the Bayside site as if it were clean fill. WT will be responsible for the incremental cost of disposing the fill above and beyond the Base Case (including incremental transportation costs, if applicable), based on the actual incremental cost, subject to audit rights to confirm expenditures and the right to appoint an on-site Qualified Professional to verify the classification of soil. Development Partner will be responsible for developing and implementing a plan to deal with any contaminated soils. Waterfront Toronto will have a right of first refusal to accept any soils it is legally entitled to take that are proposed to be exported from Bayside at a rate not to exceed the then current market rate for disposal at a licensed MOE facility (including transportation costs). If soil classified as 'Base Case' is accepted by Waterfront Toronto at a cost that is less than the current market rate (including transportation costs), Waterfront Toronto will get a credit (for the difference between the rate charged and the current market rate) towards any contributions due from Waterfront Toronto to the Development Partner for environmental management costs above the Base Case.</p> <p>The Development Partner agrees to work cooperatively with Waterfront Toronto to make reasonable changes to the master plan to minimize the financial impact on Waterfront Toronto related to impacted soils if such changes are reasonable and do not materially adversely affect the overall development plan or marketable density for the site. WT will provide its input while the master plan is being revised and ahead of the execution of the formal agreements.</p> <p>Each of Waterfront Toronto and the Development Partner shall carry out their respective obligations in respect of soil management in compliance with Environmental Laws.</p> |
| <p><i>Compliance with Waterfront Toronto Policies and Procedures</i></p> | <p>Comply with all Waterfront Toronto policies and procedures.</p> |
| <p><i>Construction Hoarding</i></p> | <p>Provide reasonable space on construction hoarding to allow Waterfront Toronto to promote the waterfront project. Waterfront Toronto will not promote competing projects on the site hoarding.</p> |

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| <i>Fair Wage Policy</i> | Adopt a fair wage policy. |
| <i>Child Care Facility</i> | <p>The Development Partner will develop and construct unfinished space that could accommodate a child care facility for 72 children (based on City of Toronto standards for child care centres) and provide such space at nominal cost (\$1) to Waterfront Toronto. The space will be provided by condominium registration of the building labeled R5 on Figure 1.</p> <p>The Development Partner will post a Letter of Credit (LC) upon closing of each site that does not include the Child Care Centre. The value of the LC will be equal to the estimated cost of the Childcare Centre obligation, divided by the total GFA for Bayside, and multiplied by the GFA of the site being closed on. The purpose of the various LCs is to secure the obligation to deliver the Child Care Centre. Once the Child Care Centre is constructed, all the Child Care LCs will be released.</p> |
| <i>Affordable Housing</i> | <p>Development Partner has designated a site within Bayside that can accommodate not less than 10% of all of the residential units of the Bayside Project as the Affordable Rental Pilot Project Site (A2 on Figure 1). At least 25% of the units in the Affordable Rental Pilot Project site will be affordable rental housing units (remaining 75% to be market rental units).</p> <p>Development Partner has designated a site that can accommodate sufficient residential units such that, when combined with the affordable rental units in the Affordable Rental Pilot Project site, they will meet the 20% affordable rental housing quota for the Bayside Project (A1 on Figure 1).</p> <p>Development Partner will have a right of first offer (ROFO) and a right of first refusal (ROFR) on the Affordable Rental Pilot Project and on the development of the other sites in Bayside designated for affordable rental housing. If any of these sites are not developed for affordable rental housing as discussed above, as determined by WT and the City, the Development Partner will also have a right of first offer on these sites based on the revised land use.</p> <p>Development Partner agrees that should an allocation or opportunity materialize to provide affordable housing in the specified location prior to the anticipated phasing, WT and/or the City may seek to move up the date for construction. If this should happen, the Development Partner will be provided first right of offer to complete the project. It is further acknowledged that the details of the Affordable Rental Pilot Project may be altered in response to the available programs of the day and that WT and the City reserve the right to modify the affordable/market rental formula in consultation with the Development Partner and so long as the overall ratio of affordable rental housing units for this district is not increased.</p> |

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| | Waterfront Toronto will enter into an Affordable Housing Agreement with the City as part of the requirement to lift the ‘h’ designation for Bayside. |
| <i>Zoning</i> | Comply with the zoning and applicable City and Waterfront Toronto planning documents and not seek any variances to the zoning without the written consent of Waterfront Toronto, to be timely provided. Consent for minor variances will not be unreasonably withheld. Consent for material changes to the zoning may be unreasonably withheld at the sole discretion of Waterfront Toronto. |
| <i>Residential Units and Marketing</i> | Provide Waterfront Toronto with proposed floor plans and marketing strategy for residential units. Development Partner will meet 5% low end of market requirement (defined by maximum size limits) and the 5% family unit requirement (defined as three or more bedrooms). If the family units do not sell in a reasonable time frame, Developer will be allowed to convert those to market units. |
| <i>Development Charges and Building Permits</i> | The Development Partner will pay applicable development charges and building permit fees for all sites. |
| <i>Vision</i> | The Development Partner commits to implementing the project as outlined in their Bayside RFP Submission in all material respects, subject to market demand and ongoing consultation with Waterfront Toronto, the City of Toronto, and other stakeholders |
| <i>Ground Floor Animation</i> | <ul style="list-style-type: none"> • Ground Floor Animation space (for greater certainty, the retail space in R1, R2, R3 and R4, and potentially the retail space in R5 and W1 if commercially feasible) will be leased by a single Asset Manager until Bayside is completed. • Development Partner will use best commercial efforts to implement the leasing and management strategy outlined in Section D of their Bayside RFP submission in all material respects, all subject to market constraints. Notwithstanding the Development Partner’s best commercial efforts to implement this strategy, it is the intention of the parties that the strategy be sufficiently flexible to allow for the timely leasing of space while meeting the overall ground floor animation objectives. • If the Development Partner creates Live/Work units, such units will be excluded from the reciprocal profit share structure outlined below. • Waterfront Toronto to have input into the leasing process, subject to ongoing communication between the parties and a timely feedback process recognizing the need for the Development Partner to make leasing decisions quickly. Such input rights will expire upon completion of the Bayside development or earlier sale of individual retail units. • The Development Partner agrees not to enter into a lease if a proposed tenant would significantly detract from the development plan or is significantly deviating from the principles of the development plan. In |

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| | <p>addition, the Development Partner agrees not to lease to tenants whose principal business is identified on the list of excluded uses agreed to by the parties, both acting reasonably.</p> <ul style="list-style-type: none"> • Development Partner will create a reciprocal profit share structure between the legal owners of sites R1, R2, R3 and R4 retail for the purpose of facilitating the strategic implementation and ongoing management of the Ground Floor Animation space. Development Partner will make best reasonable efforts to include the retail portion of R5 and W1 in the profit share pool if doing so will not adversely impact the financial performance or viability of any of the retail sites, in Development Partner’s sole discretion. Once each space is occupied and generating positive cash flow, the net cash flow (stripped of the amortized TI’s) would be added to a general pool and the proceeds would be allocated to the various owners based on proportionate GFA within the pool. The amortized TI’s for each retail site will go back to the owners of said sites. • WT will be responsible for taxes and operating costs for retail space until it is occupied and generating positive cash flow. This contribution will be capped at an amount equal to \$20 per square foot of retail space on a phase by phase basis. Such costs will be credited against future land payments. |
| <p><i>Architecture and Urban Design</i></p> | <p>Development Partner is committed to architectural diversity and quality and will:</p> <ul style="list-style-type: none"> • engage other architects in addition to Pelli Clarke Pelli for the design of buildings (including Phase 1) • engage a leading landscape architect • select all design firms (in addition to Pelli Clarke Pelli) in consultation with Waterfront Toronto and subject to its reasonable approval. The formal agreements will include objective standards to gauge the acceptability of the proposed design firms, and a list of pre-approved design firms, to include in any event the design firms selected as part of the pre-qualified development teams in past WT selection processes. |
| <p>DISTRICT ENERGY AND BROADBAND</p> | |
| <p><i>Energy Services Agreement and Broadband Service</i></p> | <p>Development Partner shall incorporate District Energy in the planning for the Bayside Project. Connection fees are intended to be approximately equal to the avoided capital cost of traditional heating and cooling systems. Ongoing charges are intended to be approximately equal to the full cost of operating and maintaining a traditional heating and cooling system (including lifecycle replacement) plus the cost of fuel.</p> <p>Waterfront Toronto intends to provide ultra-broadband infrastructure to the buildings in Bayside. Development Partner will not enter into any exclusive contracts (including marketing contracts) with telecom service</p> |

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| | <p>providers for the Bayside site. Waterfront Toronto will arrange to install all in-building communications wiring and Development Partner will pay Waterfront Toronto \$2,400 per residential unit upon the issuance of an above-grade building permit to support the cost of such infrastructure (the rate for commercial space has not yet been established, and will be dependent on the needs of the particular end-user).</p> |
| REVIEW AND APPROVAL PROCESS | |
| <i>Consent Required</i> | <p>Development Partner shall obtain Waterfront Toronto's approval, to be provided timely, for all material submissions to the City including minor variance applications or proposed changes to zoning. Waterfront Toronto reserves the right to deny consent for material changes to the zoning in its sole discretion.</p> |
| <i>Consent or Approval Process</i> | <p>Development Partner is required to follow the process set out in the Development Agreement for submitting materials to Waterfront Toronto. Development Partner will follow the Waterfront Toronto Design Review Panel process.</p> |
| <i>Consultation, Reports and Assistance</i> | <p>Development Partner is required to meet with Waterfront Toronto throughout the development process. The frequency and structure of such meetings will be determined by the parties as required, acting reasonably. Waterfront Toronto may request reasonable information from time to time to ensure the Development Partner is fulfilling its obligations under the agreements.</p> |
| <i>Public Consultation</i> | <p>Development Partner is required to participate in public consultations at key milestones in the development process.</p> |
| COVENANTS OF DEVELOPMENT PARTNER | |
| <i>Waterfront Toronto Access</i> | <p>Development Partner will allow Waterfront Toronto reasonable access to the site from time to time upon notice.</p> |
| <i>Indemnity and Release</i> | <p>Development Partner will indemnify Waterfront Toronto and the City from damages arising out of the Development Partner's performance or non-performance of its obligations under the PA or any of the Development Partner's activities on or about Bayside Lands except where damages or liability is due to the negligence or unlawful misconduct of Indemnified Parties. The Development Partner indemnifies Waterfront Toronto and the City for breach or non-compliance with any environmental plan or Environmental Laws by Development Partner or its agents.</p> <p>The Development Partner shall take out and maintain or cause to be taken out insurance which is considered "market" for this type of project and shall include not less than \$10 million in liability coverage.</p> |

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| | <p>In the absence of the Development Partner's, willful misconduct, fraud or criminal acts, the Development Partner's indemnity obligation will be limited to the insurance proceeds available under the insurance required to be obtained for all claims properly covered by such insurance and the Development Partner's liability to indemnify Waterfront Toronto and the City for claims not properly covered by the insurance that the Development Partner is required to arrange will be limited to Five Million (\$5,000,000) Dollars.</p> <p>Neither party shall be liable for consequential damages.</p> |
| <i>Unavoidable Delay</i> | <p>If Development Partner suffers an unavoidable delay, the time line under the PA may be extended. An unavoidable delay is a delay resulting from events beyond the control of the Development Partner, but excluding normal construction delays such as weather.</p> |
| DEFAULT AND ENFORCEMENT | |
| <i>Development Partner Events of Default</i> | <p>If Development Partner defaults on its obligations under the PA and fails to remediate within a reasonable period of time given the circumstances, this will constitute an Event of Default.</p> |
| <i>Waterfront Toronto Remedies</i> | <p>If a material Event of Default occurs under the PA or any of the Development Agreements and is not remediated within the timelines allowed under the formal agreements, Waterfront Toronto will have the right to terminate options on future phases of Bayside that the Development Partner has not closed on. This will only apply for “bad acts” that cannot be remediated effectively by the Development Partner.</p> |
| <i>Waterfront Toronto Events of Default</i> | <p>If Waterfront Toronto defaults, Development Partner will be provided additional time to meet its obligations, except in cases where more than additional time is required to compensate the Development Partner (e.g., district energy or servicing). In those cases, WT will reimburse Development Partner for out-of-pocket costs and reasonable internal costs dedicated to the Bayside project which are incurred to cure such defaults. If the Waterfront Toronto event of default is not remediated within a reasonable cure period, the Up Front Payment will be returned to the Development Partner.</p> <p>If Waterfront Toronto fails to deliver sufficient municipal services (excluding municipal services within the Bayside site which are under the control of the Development Partner) to permit occupancy of a building and such building is otherwise ready for occupancy, Waterfront Toronto will pay for the out-of-pocket carrying costs of the building. For condominium buildings, such costs are defined as the monthly occupancy fees otherwise payable by the purchasers of the condominium units. For commercial sites such costs would include interest on construction financing and any timing penalties payable to tenants as a result of the servicing delay.</p> |

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| <i>Changed Circumstances</i> | If Waterfront Toronto at any time directs Development Partner to abandon district energy, it will compensate Development Partner for out-of-pocket costs of providing alternative heating and cooling, net of any savings (e.g. avoided district energy connection fees). For greater certainty, out-of-pocket costs may include salary costs for Hines Canada staff allocated to the Bayside project provided reasonably detailed back-up documentation can be provided. |
| <i>Arbitration</i> | Disputes will be submitted to arbitration. |
| W Buildings | <p>Development Partner will work with WT to identify uses for the “W” buildings as promptly as possible. There will not be a required closing date or a Sale Price paid to WT for the lands associated with the W buildings unless they are built to accommodate retail uses. To the extent these retail uses generate market investor returns for these buildings, the retail revenue share formula applies.</p> <p>W2 and W3: Development Partner will act as Development Manager on behalf of WT or the user ultimately identified, but will not be required to pay for or own said buildings. Waterfront Toronto will have a right of first offer to purchase these buildings (at cost) prior to their conversion to retail uses as contemplated above</p> <p>W1: Development Partner will use reasonable efforts to seek to identify users that are consistent with the vision and leasing program developed by the Development Partner for the Bayside site to own portions of the W1 Building through strata titles. The priority will be to identify cultural users for the space in W1. The building would then be built by the Development partner as Development Manager on behalf of said users. Failing finding such user-owners, Development Partner will build the W1 building, without any associated parking, such that it is ready for occupancy at the same time as Building R5. Waterfront Toronto will have a right of first offer to purchase any or all of the space in the W1 building at cost, up until such time as the Development Partner elects to change the use to something other than a cultural use. WT will support the W1 building being used for shared required condominium amenity space if the cultural uses outlined above are not identified.</p> |
| Flexibility | Recognizing that the Project will span a long development lifecycle, Development Partner and Waterfront Toronto will work cooperatively and reasonably to evolve the master plan over time as required, including modifying the uses or the timing or sequencing of closing dates, to fit the market demands. For clarity, such flexibility will include the specific right to change the sequencing of sites R1, R2, R3 and R4 within the schedule outlined in Schedule A. A material change in mix of use from what is outlined in the concept plan (Figure 1) would require approval from WT and the City at their discretion. |
| Momentum | If Development Partner has built momentum in the residential product, and the office product is not able to attract tenants and financing despite |

Attachment 4 – Major Terms of Project Agreement

Bayside – Project Agreement Term Sheet

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| | <p>Development Partner's best reasonable efforts, subject to WT's satisfaction which may require the Development Partner to produce third party reports and/or evidence of its efforts to support its claim, then WT will defer the requirement to build the office parcels.</p> <p>In any event, WT will allow buildings R3 and R4 to be built before building C1, and Building R5 to be built before Building C2.</p> |
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