



STAFF REPORT ACTION REQUIRED

Acquisition of Victoria Memorial Square Park at 10 Niagara St.

Date:	April 14, 2011
To:	Government Management Committee
From:	Chief Corporate Officer and General Manager Parks, Forestry and Recreation,
Wards:	Ward 20 – Trinity - Spadina
Reference Number:	P:\2011\Internal Services\RE\Gm11018re (AFS #13611)

SUMMARY

This report seeks authorization to acquire the property known as Victoria Memorial Square Park, which is one of the City's oldest parks, from the Federal Government for a nominal sum.

RECOMMENDATIONS

The Chief Corporate Officer and the General Manager of Parks, Forestry and Recreation recommend that:

1. City Council grant authority to acquire the property known municipally as Victoria Memorial Square Park and legally described as Part of the Military Reserve Plan designated as Part 1 on Plan 66R-22384 (the "Lands") in its current environmental condition without remediation.
2. City Council grant authority to enter into an Offer to Purchase the Lands from Her Majesty the Queen in Right of Canada as represented by the Minister of Public Works and Government Services on behalf of the Minister of National Defence, substantially on the terms outlined in Attachment 1 to this report, and on such other terms and conditions as may be acceptable to the Chief Corporate Officer and General Manager Parks, Forestry and Recreation and in a form satisfactory to the City Solicitor.

3. The Chief Corporate Officer and the Director of Real Estate Services be authorized severally to execute the Offer to Purchase on behalf of the City.
4. The City Solicitor be authorized to complete the transaction on behalf of the City, including paying any necessary expenses, amending the closing and due diligence dates, and any other dates, and amending and waiving terms and conditions, on such terms as she considers reasonable.

FINANCIAL IMPACT

The acquisition cost for Victoria Memorial Square Park is nominal. Closing costs for the acquisition in the amount of \$500.00 will also be required. Funding is available in the 2011 Approved Capital Budget for Parks, Forestry and Recreation.

Parks Forestry and Recreation have been maintaining the property since 1884 and, therefore, there will be no impact on the Parks Forestry and Recreation Operating Budget.

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

DECISION HISTORY

Clause 40 of Report No. 3 of the Executive Committee adopted by City Council on January 26, 1987 initially approved the purchase of the Lands in 1987 for a nominal sum from Public Works Canada (Department of National Defence).

Clause 23 of Report No. 8 of the Executive Committee adopted by City Council on April 15, 1991 rescinded the authorization to purchase the Lands subsequent to receipt of a letter from the Department of National Defence advising of its intention to retain the Lands.

ISSUE BACKGROUND

The Lands, known as Victoria Memorial Square Park, consist of approximately 0.83 hectares (2.1 acres) located at the northwest corner of Niagara and Portland Streets. The Lands are currently improved with a small brick building, children's playground, drinking fountain, park benches and picnic tables, flagstone and concrete walkways, and a stone monument surrounded by concrete posts.

The Lands were part of the original 1,200 acre Garrison Common laid out by John Graves Simcoe in 1793. Victoria Memorial Square was originally shown on a plan of subdivision as a 6-acre park in 1836. The Federal Government sold off parcels until it was reduced to its present day size of just over 2 acres. There is a military burial ground in the centre of the park which was closed in 1863 and it is estimated that 500 internments took place in the military burial ground prior to its closure. The City has

looked after the site since about 1884 and since 1938, the City has had a Licence of the Lands pursuant to a 25-year agreement from the Federal Government at \$1.00 per year, which Licence was renewed in 1964 and 1991.

The City and Federal Government have discussed the acquisition of the Lands by the City on a number of occasions. In 1987, City Council actually authorized the acquisition of the Lands, but the authorization was later rescinded when the Department of National Defence subsequently advised that it wished to retain the Lands. In 2005, the Friends of Fort York and Fort York staff renewed the push to transfer title of the Lands to the City.

In 2010, the Federal Government agreed that the City could acquire the Lands provided the City acquire the Lands in an "as-is" condition and take title subject to restrictive covenants related to the historic nature of the Lands as part of the Fort York National Historic Site, the conservation and protection of those heritage features, and the required continued use as a park. The major terms and conditions of the proposed acquisition are contained in Attachment 1 to this report.

Prior to completing the negotiations to purchase the Lands, the City completed a Phase I and Phase II Environmental Site Assessment. As City staff anticipated, the soils testing for the Phase II assessment identified soil impacts greater than those set out in the Ministry of Environment Table 3 Site Conditions Standards for residential/parkland land use.

Complicating the work and the testing is the fact that Victoria Memorial Square was used as burial grounds and is an important historical site, which means that significant intrusions into the soil are not permitted.

The two main contaminants of note that were identified in testing are arsenic and lead. Following the Phase II assessment, the City commissioned a site specific risk assessment to look at the identified impacts and assess their impact on human health for the occupants of this parkland. The Human Health Screening Level Risk Assessment concluded that based on "expected exposure dosages determined that unacceptable hazards or risks were not anticipated for the documented dosages of lead and arsenic at this site."

COMMENTS

Under normal circumstances, lands acquired would be remediated to the level required by the intended use of the land. In this case, the intended use is the same as it has been since the 1880's, which is parkland and the Site Specific Risk Assessment indicates that the risks associated with the continued use of this parkland are minimal.

Victoria Memorial Square has been used by Torontonians as a park since the 1880's and informally for many decades before. The site has mature trees, and footpaths. To fully meet the Ministry of Environment Table 3 standards for parkland requires excavation and

removal of impacted soil. City staff advised that removal of the soil would kill the trees and disturb the burial ground.

The conveyance of Victoria Memorial Square to the City would fulfill the City's long-standing desire to acquire the Lands and the Site Specific Risk Assessment shows park users will be safe in the existing environmental condition of the park.

CONTACT

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SIGNATURE

Bruce Bowes, P.Eng.
Chief Corporate Officer

Brenda Patterson, General Manager
Parks, Forestry and Recreation

ATTACHMENTS

Attachment 1 - Terms and Conditions – a Portion of 10 Niagara Street, Victoria
Memorial Park, Toronto

Attachment 2 - General Site Layout

Attachment 3 - Subject Location Map

ATTACHMENT 1

Terms and Conditions – a Portion of 10 Niagara Street, Victoria Memorial Park, Toronto

Vendor:	Her Majesty the Queen as represented by the Minister of Public Works and Government Services on behalf of the Minister of National Defence; ("Her Majesty")
Location:	A portion of 10 Niagara Street, Victoria Memorial Park (as shown on Attachment 3)
Legal Description:	Designated as Part 1 on Plan 66R-22384 (the "Property").
Purchase Price:	Two Dollars (\$2.00) nominal sum, inclusive of HST.
Approximate Size:	8,312 sq.ft. (2.05 acres)
Improvements:	The park site is improved with a small brick building, children's playground; drinking fountain; park benches, and picnic tables; flagstone and concrete walkways; and a stone monument surrounded by concrete posts.

Conditions:

City to covenant as follows:

- (i) To conserve, protect and maintain all heritage features and characteristics of the Property at all times and ensure that the Property is kept in as good a state of maintenance and repair as a prudent owner would keep it;
- (ii) Not to alter, remove or change any heritage features and characteristics of the Property in any manner without Her Majesty's written consent;
- (iii) Not to use the Property for any purpose other than park purposes; and
- (iv) Not to sell or transfer all or any part of the Property without Her Majesty's written consent.
- (v) To indemnify Her Majesty from all claims, demands, loss, costs, damages, actions, suits or other proceedings made, sustained, brought or prosecuted in any manner based upon or attributable to any injury or damage to persons and property arising or resulting from any act or omission of the City in complying with its covenants.

Closing Date: To be determined

ATTACHMENT 2

GENERAL SITE LAYOUT



ATTACHMENT 3

SUBJECT LOCATION MAP

