



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Acquisition of Surplus LCBO Property at 11 Brock Avenue for Affordable Rental Housing

Date: August 15, 2019

To: General Government and Licensing Committee

From: Executive Director, Housing Secretariat and Executive Director, Corporate Real Estate Management

Wards: Ward 4 - Parkdale-High Park

REASON FOR CONFIDENTIAL INFORMATION

This report deals with a proposed or pending acquisition of land by the City of Toronto.

SUMMARY

This report seeks City Council authority to acquire the property at 11 Brock Avenue for affordable rental housing purposes and identifies the source of funding to support the acquisition, as outlined in this report and Confidential Attachment 1.

In July 2015, as directed by City Council in MM8.19, Infrastructure Ontario and the Liquor Control Board of Ontario (the "LCBO") were advised of the City's interest in acquiring the property and discussions between the parties have been ongoing since. In July 2018, City Council directed staff in EX36.50 to complete the required due diligence to acquire 11 Brock Avenue and to report back on the results and the sources of funding to support the acquisition.

Staff have completed negotiations with the LCBO, and are following up with the LCBO for the signed agreement. Staff have also completed the environmental investigations for the property. Following the acquisition, the City's Housing Secretariat will release a competitive proposal call to select a non-profit proponent to work with the City and CreateTO to design, build and operate this site under a long term lease to the City. The Housing Secretariat will report to City Council on the results of the proposal call, including funding and incentives allocations, as well as seek authority for the long term lease to the successful non-profit group.

RECOMMENDATIONS

The Executive Director, Housing Secretariat and the Executive Director, Corporate Real Estate Management recommend that:

1. City Council authorize the City of Toronto to enter into an Agreement of Purchase and Sale (the "Agreement") to acquire 11 Brock Avenue (the "Property") for the purchase price outlined in Confidential Attachment 1 and substantially on the terms outlined in Appendix A to this report and on such other or amended terms and conditions as may be acceptable to the Executive Director, Corporate Real Estate Management, and in a form satisfactory to the City Solicitor.
2. City Council authorize the Executive Director, Corporate Real Estate Management, to execute the Agreement and any ancillary agreements and documents under the Agreement on behalf of the City of Toronto.
3. City Council authorize the Executive Director, Corporate Real Estate Management, to administer and manage the transaction, including the provision of any consents, approvals, waivers and notices, provided that they may, at any time, refer consideration of any such matters (including their content) to City Council for consideration and direction.
4. City Council authorize the City Solicitor to complete the transaction on behalf of the City of Toronto, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as they consider reasonable.
5. City Council authorize the public release of the confidential information contained in Confidential Attachment 1 once the transaction contemplated in this report has been completed and the Liquor Control Board of Ontario (the "Vendor") has disposed of its interest in the Property.
6. City Council approve an increase to the 2019 Approved Operating Budget for Shelter, Support and Housing Administration, in coordination with the Executive Director, Housing Secretariat, for the total of the proposed purchase price and closing costs outlined in Confidential Attachment 1, fully funded from the Development Charges Reserve Fund for Subsidized Housing (XR2116).
7. City Council approve an increase of \$31,000 gross, \$0 net to the 2019 Approved Operating Budget for Shelter, Support and Housing Administration, in coordination with the Executive Director, Housing Secretariat, to provide additional funding to cover the cost of the completed due diligence work at 11 Brock Avenue, fully funded from the Capital Revolving Reserve Fund for Affordable Housing (XR1058).

FINANCIAL IMPACT

This report seeks Council authority to purchase the Property for the costs as outlined in Confidential Attachment 1, with funding provided from the Development Charges

Reserve Fund for Subsidized Housing (XR2116). The uncommitted balance in the Development Charges Reserve Fund as of August 9, 2019 is \$28,300,000. This amount includes 2019 projected Development Charge revenues of \$21,000,000.

This report also seeks an additional \$31,000 from the Capital Revolving Reserve Fund for Affordable Housing (XR1058) to complete the necessary due diligence work at the property. The uncommitted balance in the Capital Revolving Reserve Fund as of August 2, 2019 is \$5,900,000.

Should City Council authorize the acquisition of 11 Brock Avenue, the Housing Secretariat anticipates conducting a competitive proposal call to select a non-profit proponent to work with the City and CreateTO to design, build and operate the redevelopment under a long term lease.

The proposed rental housing development would be eligible for City funding and/or incentives through the Open Door Affordable Housing program to provide capital support for the redevelopment and to maximize the affordability of the future homes over the long term.

Staff will report back to City Council on the results of the proposal call, including approval requests for funding and incentives allocations, as well as seek authority to enter into a long term lease with the successful non-profit proponent.

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

EQUITY IMPACT

Access to safe, secure, affordable rental housing in all parts of Toronto is a fundamental goal of the City's Housing Opportunities Toronto Action Plan 2010-2020. Providing new affordable housing is also a goal of the City's Poverty Reduction Strategy.

The acquisition and development of 11 Brock Avenue will provide much needed affordable rental housing for the Parkdale neighbourhood and assist the City in meeting its housing targets.

DECISION HISTORY

At its meeting on December 4, 5 and 13, 2018, City Council approved the budget adjustment to increase Shelter, Support and Housing Administration by \$75,000 to complete the necessary due diligence work at 11 Brock Avenue as approved by City Council on July 23, 2018 in EX36.50.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC1.7>

At its meeting held on July 23, 24, 25, 26, 27 and 30, 2018, City Council directed the Director, Real Estate Services and the Director, Affordable Housing Office, to complete

the necessary due diligence on 11 Brock Avenue and to report back on the results and source of funding to support the proposed acquisition.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX36.50>

At its meeting held on May 22, 23 and 24, 2018, City Council amended existing delegated approvals to authorize the grant of unqualified environmental indemnities in certain limited circumstances involving the purchase of low risk properties from a public agency.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.GM27.12>

At its meeting held on April 26, 27 and 28, 2017, City Council authorized the Affordable Housing Office to enter into agreements and engage in pre-development investigations and due diligence considered necessary to ensure a successful affordable housing call for the property at 11 Brock Avenue.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX24.17>

At its meeting held on July 7, 8 and 9, 2015, City Council directed the City Manager to advise Infrastructure Ontario that the City of Toronto has an interest in the Property at 11 Brock Avenue and to request a meeting with Infrastructure Ontario and the Ministry of Economic Development Employment and Infrastructure to discuss options for developing the site at 11 Brock Avenue for the purpose of building affordable housing.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.MM8.19>

COMMENTS

The Property is owned by the LCBO and it is the site of a vacant LCBO store. The site is approximately 1,042 m² (11,217 ft²) and is improved with a single storey commercial brick building constructed in 1957 with an approximate gross floor area of 400.2 m² (4,308 ft²). The LCBO declared the property surplus in 2015, at which time the City of Toronto expressed an interest in acquiring the Property and commenced discussions with the LCBO.

The acquisition of this Property will allow for the creation of new affordable rental homes in downtown Toronto. The site is designated as Neighbourhoods in the City's Official Plan and is suitable for a low rise infill development. It is well-supported by public transit and is adjacent to the main street amenities of Queen Street West. The residential redevelopment of the Property also provides a revitalization opportunity to the local area and the neighbourhood community has expressed interest and support for the redevelopment of the site for affordable rental housing.

Following the acquisition, the Housing Secretariat will release a competitive proposal call in 2020 to select a non-profit proponent to work with the City and CreateTO to design, build and operate this site under a long term lease to the City. The proposed development will be eligible for City funding and/or incentives through the Open Door Affordable Housing program to provide the capital support, and maximize the affordability of the future homes. The Housing Secretariat will support the successful proponent in applying for federal funding through the National Housing Strategy. In addition, the Housing Secretariat will work with Shelter, Support & Housing

Administration and the successful proponent to achieve deeper affordable rents based on the incomes of qualifying tenants. The Housing Secretariat will report to City Council on the results of the proposal call, including funding and incentives allocations, as well as seek authority for the long term lease to the successful non-profit proponent.

The environmental due diligence on the property and the preliminary Phase 1 and Phase 2 Environmental Site Assessments (ESA) have been completed and there are no major issues identified within the reports. Minor amounts of contamination have been noted in soil samples on the lands, being exceedance of mercury and lead. These conditions are considered to be low risk and remediation costs in order to make the lands suitable for residential use and be able to obtain a record of site condition are included in Confidential Attachment 1. Remediation will involve the removal of a shallow level of soil. The agreed upon compensation is for the Property in an "as is" condition.

Staff have completed negotiations of the Agreement, on the terms as detailed in Appendix A and Confidential Attachment 1, and are following up with LCBO for the signed agreement. Based on the terms and conditions set out in the foregoing, City Staff consider the proposed agreement to be fair and reasonable to both parties and the purchase price to be at market value, and recommend the approval of this property acquisition.

CONTACT

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SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

Sean Gadon
Executive Director, Housing Secretariat

ATTACHMENTS

Appendix A - Terms and Conditions

Appendix B - Location Map

Confidential Attachment 1 - Proposed Purchase Price for 11 Brock Avenue

Appendix A

Terms and Conditions

Address:	11 Brock Avenue
Owner:	Liquor Control Board of Canada ("LCBO")
Legal Description:	PIN 21304-0153 (LT), being LT 16 – 17, Plan 429 Parkdale; and Part LT 15, Plan 429 Parkdale, as in Instruments WG103750 and WG104185, City of Toronto
Purchase Price:	Refer to Confidential Attachment 1
Deposit:	Refer to Confidential Attachment 1
Irrevocable Date:	October 16, 2019
Due Diligence Date:	October 23, 2019
Closing Date:	On or about November 15, 2019
LCBO Conditions:	Approval of LCBO Board of Directors, at least 30 days before Closing Date, and provided that at any time before Closing, the Property is not subject to Land, Constitutional and Treaty Claims.
City Conditions:	Satisfactory results of Due Diligence, including Environmental Due Diligence
Condition of Property:	City to accept Property "as is, where is", including its environmental condition, state of repair, deficiencies and encroachments.
Environmental Release and Indemnity, and Record of Site Condition:	The City is required to provide a continuing Confirmation and Release to release, discharge and fully indemnify LCBO at all times against direct or indirect claims, losses, damage or injury with respect to hazardous substances located in, on or under the Property, or in the vicinity of the Property that migrated from the Property. In addition, until a Record of Site Condition for the Property has been filed under the Environmental Protection Act (Canada) Registry, with the filing date acknowledged in writing by an EPA Director, the City has to require any purchaser, transferee or tenant of the Property to deliver such Confirmation and Release in favor of LCBO.
No Assignment:	Agreement of Purchase and Sale shall not be transferred or assigned without LCBO's consent, which may be unreasonably withheld.

Address:	11 Brock Avenue
Exclusion of Crown Liability:	Notwithstanding that LCBO is a Provincial Crown agent, the City shall not enforce LCBO's obligations against the Province.
Disclosure:	LCBO agrees that nothing in the Agreement fetters the discretion of the City in addressing matters regulated under the Municipal Freedom of Information Act (Ontario), or the treatment of confidential information to, and by, City Council in accordance with the City of Toronto Act, 2006, specifically in section 190 of that Act.

Appendix B

Location Map

