



**STAFF REPORT
ACTION REQUIRED**

**Sale of Stratified Portion of 50 Cumberland Street / 37
Yorkville Avenue
Municipal Carpark No. 15**

Date:	February 8, 2012
To:	Government Management Committee
From:	President, Toronto Parking Authority
Wards:	Ward 27 – Toronto Centre – Rosedale
Reference Number:	

SUMMARY

The purpose of this report is to obtain City Council authority for the sale of the development rights at Municipal Carpark No. 15 (50 Cumberland Street / 37 Yorkville Avenue) (the “Property”) to MUC Properties Inc. (“MUC”, “Minto” or the “Purchaser”) for the purpose of constructing a mixed-use development complete with a public parking garage containing approximately 800 spaces to be built to TPA specifications on the terms and conditions as outlined in the body of this report and detailed in Appendix “B”.

RECOMMENDATIONS

It is recommended that:

1. City Council approve a transaction between the TPA and MUC involving a sale to MUC of a stratified interest in the City-owned lands declared surplus and located at 50 Cumberland Street / 37 Yorkville Avenue for a total consideration of approximately \$76.0 million and detailed as follows:
 - a. Purchase Price of \$44.0 million (cash proceeds); plus
 - b. An 800-space public parking garage built by the Purchaser at its sole cost in accordance with TPA’s parking specification and the approved plans with an estimated value of \$32.0 million (\$40,000 per space); and
 - c. Purchase Price Bonus (if applicable) of \$60.00 per square foot of gross floor area of the Project in excess of 550,000 square feet of Gross Floor Area, established when the Project is zoned in final form.

2. City Council authorize entering into all documents necessary to complete the transaction, including but not limited to an Interim Parking Lease Agreement, a Collateral Charge, Construction Procedures Agreement and Reciprocal Cost Sharing and Easement Agreement along with all necessary transfers and undertakings; and
3. City Council authorize and direct the appropriate City Officials to take the necessary actions to give effect thereto.

Financial Impact

The total consideration for the sale of development rights at the Property amounts to \$76.0 million (*assuming a development density of 550,000 square feet (51,096 m²)*). The TPA will be paid by MUC cash proceeds of \$44.0 million plus a potential density related Purchase Price Bonus for the sale of the development rights at the Property and MUC will construct and fund the construction of a public garage containing approximately 800 spaces estimated to cost \$32.0 million (\$40,000 per stall X 800 stalls) (as detailed in the body of this report).

The TPA will receive interest on the unpaid balance of the Purchase Price until the Closing Date (*calculated to be approximately \$7.2 million in interest payments paid by MUC should Closing occur on December 31, 2015 which will be pro-rated should Closing occur earlier*) as well as receive annual payments from MUC based on 5% of the unpaid balance which will be credited to MUC as an adjustment on Closing.

Funding from the sale of development rights for this Project (TPA907611 - Redevelopment of Carpark No.15) is included in the Toronto Parking Authority's 2012-2021 Approved Capital Plan.

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

DECISION HISTORY

At its meeting of June 15, 2010 (TPA Board Minute #10-079), the TPA Board of Directors authorized staff to proceed with retaining CB Richard Ellis Limited, Brokerage ("CBRE") to market the sale of the development rights at Municipal Carpark No. 15 (50 Cumberland Street / 37 Yorkville Avenue).

On October 3, 2011 and in accordance with the City's Real Estate Disposal by-law, No. 814-2007, the Property was declared surplus (DAF No. 2011-304) with the intended manner of sale being a sale to the Purchaser. All steps necessary to comply with the City's real estate disposal process as set out in Chapter 213 of the City of Toronto Municipal Code have been complied with.

At its meeting of November 22, 2011 (TPA Board Minute #11-168) and January 25, 2012 (TPA Board Minute #12-009), the TPA Board of Directors approved the PSA with MUC involving a sale to MUC of a stratified interest in City-owned lands declared as surplus and located at 50 Cumberland Street / 37 Yorkville Avenue. A summary of the terms and conditions of the PSA as approved are detailed at Appendix "B".

ISSUE BACKGROUND

In 1955, the former City of Toronto Council authorized the establishment of a new municipal carpark between Cumberland Street and Yorkville Avenue, just east of Yonge Street, opening as a 199-space surface parking lot. In 1973, the surface lot was closed to construct the existing 1,036 space municipal above grade parking garage which includes a 25,000 square foot mixed-use retail and commercial development. The new carpark located at 50 Cumberland Street / 37 Yorkville Avenue opened in November 1974 and became known as Municipal Carpark No. 15.

In August 2010, CBRE issued a request for proposals (“RFP”), offering the Property on the open market in order to redevelop the Property which would include a sale of the development rights, under a stratified ownership arrangement, and the construction of a 800 space municipal parking facility, the title to which would remain with the City.

The RFP resulted in a total of ten (10) proponents submitting offers which were then short-listed to three (3) bids through a second round bid process. The three developers were Cityzen Commercial Corporation and ISIS Societe Co. Ltd. (“Cityzen”), MUC Properties Inc. (“MUC” or “Minto”), and Menkes Residences Ltd. (“Menkes”). During the subsequent negotiation process, both qualitative and quantitative factors in terms of impact of chosen uses and the financial benefit to the City and the TPA were considered in evaluating which offer was best suited for the redevelopment of the site. After careful consideration, MUC was determined to be the preferred proponent.

In conjunction with the RFP, the TPA requested that a circulation to the City’s Agencies, Boards, Commissions and Divisions be undertaken to identify any other municipal interest that would need to be accommodated before proceeding to declare the Property surplus. No municipal interest was expressed and on October 3, 2011, the Property was declared surplus (DAF No. 2011-304).

TPA staff met with numerous consultants to assess the merits of MUC’s proposal to assure that their proposal was the best option in terms of benefit to the City and the TPA as well as the local community from a planning and financial perspective. The following consultants and professional groups were engaged or approached by TPA staff:

- Development and Planning Consultant - R.E. Millward & Associates was retained to provide development and planning advice as it relates to the Property. Mr. Millward has many years experience in development and planning, having worked as the Commissioner of Planning with the City of Toronto;
- Financial Consultant - Integris Real Estate Counsellors was retained to:
 - i) Facilitate the issuance of a request for listing proposals to the brokerage community and assist in the evaluation and broker selection process to market the sale of development rights for Municipal Carpark No. 15;
 - ii) Provide a financial evaluation of the remaining proposals from Minto and Cityzen in order to identify which offer was considered the best option in terms of financial benefit to the City as well as the TPA; and
 - iii) Provide an appraisal for the sale of the development rights for the Property;

- Environmental Engineering Consultant(s) – Environmental engineering group(s) were retained to provide reports related to the site’s environmental and soil composition analysis as well as legal advice on the Developers due diligence; and
- Legal Counsel - Fogler, Rubinoff LLP was chosen as TPA’s Legal Counsel relating to the closing of the PSA and the completion of any associated agreements related to this transaction. The firm has worked with the TPA on several joint venture development projects including 30 Roehampton Avenue, 100 Yorkville, Chateau Royal and 30 Alvin Avenue.

An agreement of purchase and sale (“PSA”) has been executed between the TPA and MUC. The agreement contains conditions in favour of the TPA and MUC which the parties are working to satisfy, one of which is obtaining City Council approval of the transaction.

On August 11, 2011, MUC waived its conditions.

COMMENTS

The following is a summary of the issues related to the recommended approval for the sale of the development rights at Municipal Carpark No. 15 (50 Cumberland Street / 37 Yorkville Avenue) to MUC Properties Inc.

Location and Particulars

Municipal Carpark No. 15 (50 Cumberland Street / 37 Yorkville Avenue), a 1,036 space municipal above grade parking garage which includes a 25,000 square foot mixed-use retail and commercial development is located mid-block between Yonge Street and Bay Street, and is bounded to the north and south by Yorkville Avenue and Cumberland Street respectively (see attached *Site Location Map* and *Property Survey*). The Property, having a total area of approximately 49,950 square feet (4,640 m²), is improved with a nine (9) level parking deck structure (seven (7) levels above grade and two (2) levels below grade). Additional improvements include approximately 25,000 square feet (2,323 m²) of ancillary mixed-use retail and commercial leaseable space (9,200 square feet (855 m²) of retail; 5,800 square feet (539 m²) of restaurant space; and 10,000 square feet (929 m²) of commercial office space located on three floors with separate elevator access) (see attached *Appendix “A” – Property Photos (50 Cumberland Street / 37 Yorkville Avenue)*).

Two significant developments within the Bloor-Yorkville area and in the immediate vicinity of the Property include 2 Bloor Street West (by Oxford Properties), immediately to the south; and the Four Seasons / Private Residences (36-48 Yorkville Avenue & 1263 Bay Street & 55 Scollard Street) (by Menkes), to the north. The property at 2 Bloor Street West will be a mixed-use development comprising of a 7-storey podium containing commercial and residential uses, with rooftop villa units above the 7th floor at Bay Street; a 48-storey residential tower fronting onto Cumberland Street and a 36-storey residential tower at Yonge Street. The total new development density proposed for the site (in the form of two residential towers and accompanying retail) will be approximately 870,000 feet (80,825 m²).

The Four Seasons Hotel and Private Residences development which are nearing completion, will include a four-storey podium along the Yorkville Avenue and Bay Street frontages that will accommodate commercial, hotel and residential lobby uses; a 46-storey building at the south-west corner of the site at Bay Street and Yorkville Avenue and a 30-storey building offering 133 private residences in the north-east corner of the site, on the south side of Scollard Street. The hotel will offer a long list of amenities and services including an upscale restaurant, bar and 28,000 square foot (2,600 m²) spa which will attract non-residents / guests to the area.

Corporate Profile – MUC Properties Inc.

MUC Properties Inc. is a wholly owned subsidiary of Minto, a family owned integrated real estate development, construction and management company since 1955 with operations in Ottawa, Toronto and Florida.

To date, Minto has built more than 67,000 new homes, manages more than 15,000 residential rental homes and apartments, and carries a commercial portfolio of more than 2.5 million square feet of office, retail and industrial space including several successful projects in Toronto.

The TPA is currently working with MUC on another redevelopment project at Municipal Carpark No. 49 (30 Roehampton Avenue) where in early 2010 the TPA negotiated the sale of development rights for the property (previously reported to and approved by City Council). The development, which contemplates a single residential condominium tower will offer a podium design element complete with a 150-space below grade public parking garage that will be built to TPA specifications.

Development Proposal

MUC is contemplating a mixed-use development with a two-tower residential condominium incorporating a retail component and an estimated 800-space public parking garage and a 400-space residential garage.

The Purchaser will be required to go through the normal rezoning and site plan process. The City shall be under no obligation by virtue of any provision of the PSA to grant approvals, or consents, including approvals or consents relating to the City's Official Plan, zoning by-laws, site plan control, minor variances and building permits necessary for any contemplated use by the Purchaser. The Purchaser has acknowledged that nothing contained in the PSA shall in any manner limit or restrict the normal exercise of discretion by the various municipal departments and officials or fetter the discretion of City Council or by any delegated authority in any way, including the Purchaser's development application. The Purchaser is expected to be the development applicant on this Project.

Parking Supply and Demand

TPA staff have undertaken a strategic assessment of the parking requirements within the area and have determined that the number of parking spaces required within a re-developed Municipal Carpark No. 15 to address the service objective of short-stay and

non-discretionary long-stay parkers would be reduced by between 200 and 300 spaces. At the present time, the garage provides 1,036 spaces on nine levels and fills to approximately 95% of capacity (980 spaces occupied on a busy peak day). Of these 980 occupied spaces, between 300 and 325 spaces are occupied by short-stay parkers and approximately the same number are occupied by non-discretionary long-stay parkers. The remaining 330 to 380 spaces are occupied by traditional commuters which do not form part of TPA's core service target and could be potentially displaced. It is expected that with the completion of the Four Seasons / Private Residences development to the north as well as the eventual redevelopment of 2 Bloor Street West immediately to the south, these parking demand generators will result in an increase of approximately 100 peak short-stay parkers to the area.

Summary of MUC Purchase and Sale Agreement

Summarized at Appendix "B" are the terms and conditions of the PSA between the TPA (as "Vendor") and MUC (as "Purchaser").

Financial Analysis

There are several key benefits that TPA staff has identified as part of this sales transaction. Since this deal involves the redevelopment of the Property from an existing garage to a new public parking facility, the typical redevelopment pro-forma which builds in an expectation of a 40% decrease in revenue on account of conversion from a surface parking facility to a garage does not apply in this scenario.

The redevelopment of the Property combined with the completion of the Four Seasons / Private Residences development immediately to the north as well as the pending redevelopment of 2 Bloor Street West to the south, will prove to be significant parking demand generators resulting in an increase of approximately 100 peak short-stay parkers to the area. Based on the increase in parking demand, gross parking revenues are conservatively estimated to increase by approximately \$1.5 million annually. By way of example, based on 2011 gross parking revenues of \$4.85 million, the new parking facility albeit offering 236 fewer parking stalls, would generate close to \$6.4 million annually. In summary, the net basis of this sales transaction proves significantly more beneficial to both the City as well as the TPA than the current situation.

A financial analysis of the redevelopment proposal confirmed that the TPA's benchmark criteria used to assess the merits of this transaction are being achieved. More importantly, this deal will replace the aging infrastructure and ensure a long term income stream from the Property, allowing the TPA the ability to continue to serve the parking needs of the area.

The total consideration for the sale of development rights amounts to approximately \$76.0 million (*assuming a development density of 550,000 square feet (51,096 m²)*). The TPA will be paid by MUC cash proceeds of \$44.0 million plus a potential density related Purchase Price Bonus for the sale of the development rights at the Property and MUC will construct (to TPA specifications) and fund the public garage containing approximately 800 spaces estimated to cost \$32.0 million (\$40,000 per stall X 800 stalls).

Because the Closing is not scheduled to take place until December 31, 2015, MUC will pay to the TPA:

- i) Interest at the annual rate of 5% on the unpaid balance of the Purchase Price from the date the TPA waives its conditions (the "Vendor's Waiver Date" expected to be on or before March 14, 2012), payable annually commencing on December 31, 2012 and upon the anniversary thereafter until the Closing Date (*calculated to be approximately \$7.2 million in interest payments paid by MUC, but to be pro-rated should Closing occur earlier*); and
- ii) Annual purchase price payment amounts on account of the balance due on Closing, based on 5% of the unpaid balance of the Purchase Price, payable on the same dates as noted above (representing *approximately \$10.6 million (\$3.0 million deposit plus \$7.6 million payment amount) paid by MUC should Closing occur on December 31, 2015*).

The deposit and purchase price payment amounts paid by MUC on account of the balance due on Closing are non-refundable and will be credited to MUC as an adjustment on Closing. The accrued interest on the \$3.0 million deposit until the Vendor's Waiver Date shall be paid to MUC upon Closing, while the accrued interest on the deposit amounts after the Vendor's Waiver Date shall accrue to the benefit of the TPA and shall be paid to the TPA upon Closing.

TPA's financial consultant, Integrus Real Estate Counsellors, was retained by the TPA to assess the fair market value of the development rights of the Property. The reported sale price achieved is within the value range estimated for the Property at between \$74.0 million and \$84.0 million. They have also reviewed and confirmed that the terms and conditions of the transaction are financially sound for both the City and the TPA.

We have met with the local Councillor, Kristyn Wong-Tam and she has been made aware of the business terms of this sale transaction.

Conclusion

Among the reasons that this deal is of great benefit and value to both the TPA and the City are:

- The sale of development rights through a competitive bid process has achieved a strong market sale price;
- The monetization of the asset will help replace the aging garage infrastructure and include development of new public parking garage;
- A new public parking garage will ensure a long term income stream from the Property and financially proves to be the best option for this redevelopment; and
- A new public parking garage will continue to serve the future parking needs of the immediate neighbourhood.

The approval of the transaction with MUC will result in a significant portion of the net sales proceeds from this transaction to be paid to the City (approximately \$41.0 million).

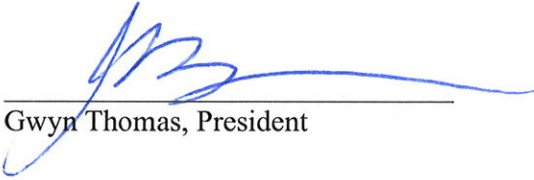
For the reasons outlined within the body of this report, we recommend that City Council approve the sale of the development rights at Municipal Carpark No. 15 (50 Cumberland Street / 37 Yorkville Avenue) to the Purchaser for the purpose of constructing a mixed-use development with a two-tower residential condominium incorporating a retail component and an estimated 800-space public parking garage to be built to TPA specifications on the terms and conditions as outlined in the body of this report and detailed in Appendix "B".

CONTACT

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SIGNATURE



Gwyn Thomas, President

ATTACHMENTS

Site Location Map

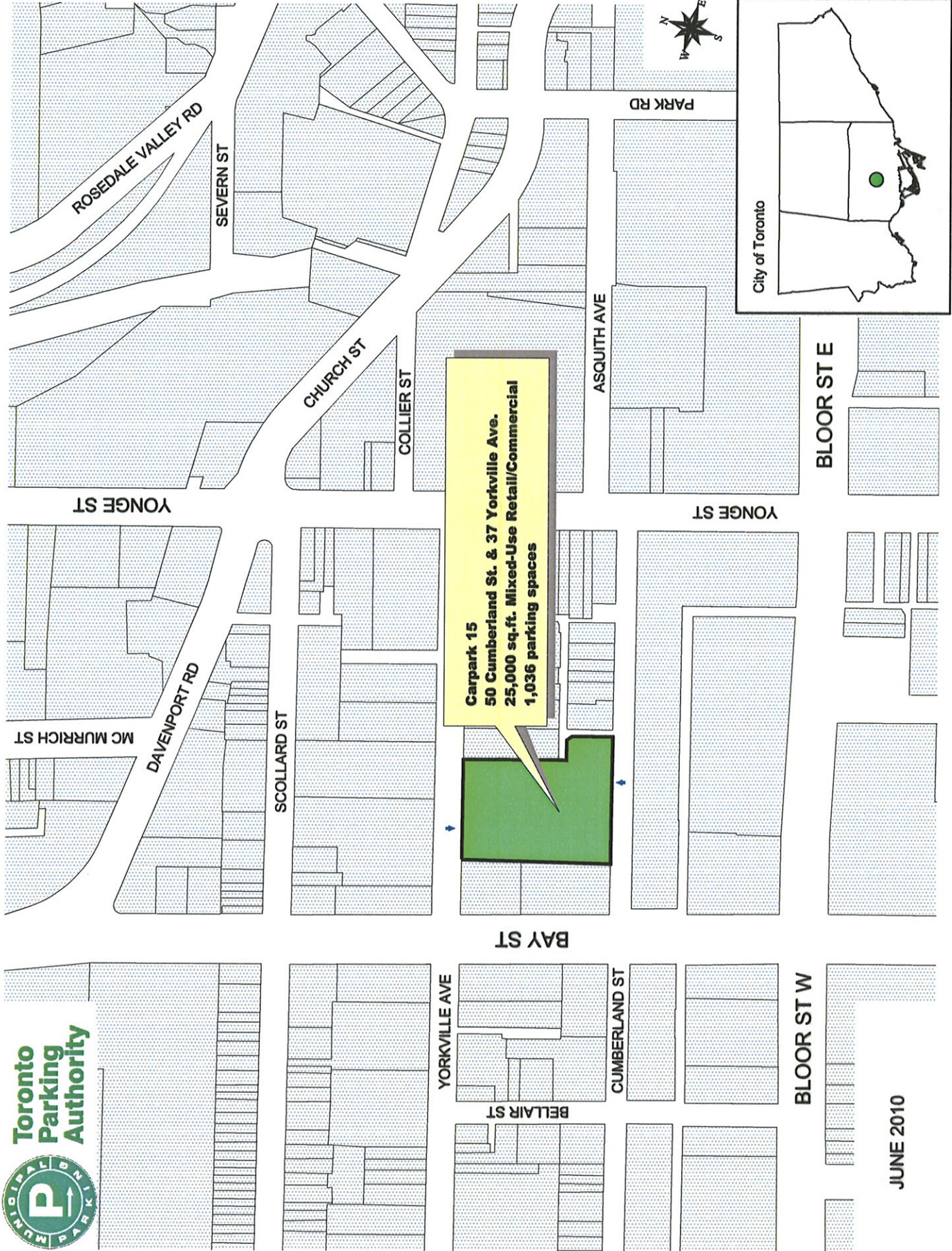
Property Survey (*50 Cumberland Street / 37 Yorkville Avenue*)

Appendix "A" – Property Photos (*50 Cumberland Street / 37 Yorkville Avenue*)

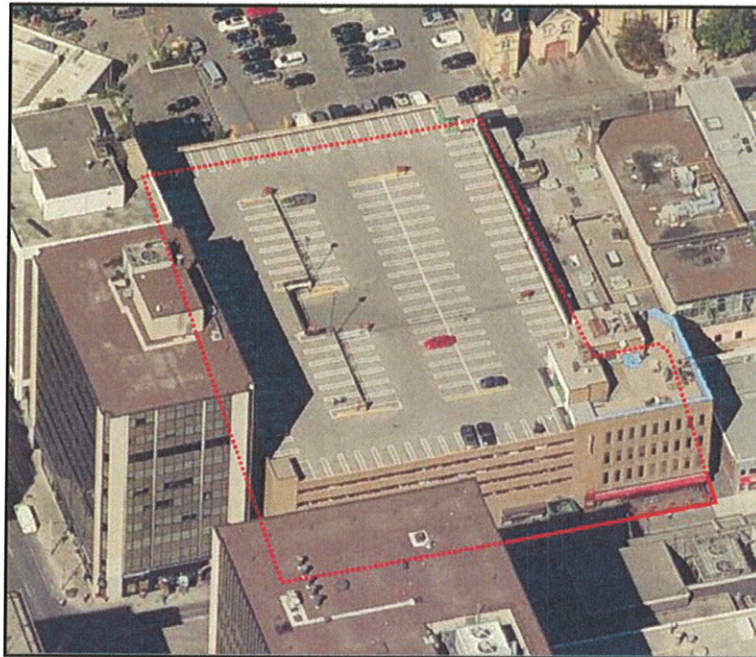
Appendix "B" – Summary of MUC Purchase and Sale Agreement



Toronto
Parking
Authority



Appendix 'A'
Property Photos
(50 Cumberland Street / 37 Yorkville Avenue)





South side of subject, looking north west



Eastern limit of the subject property



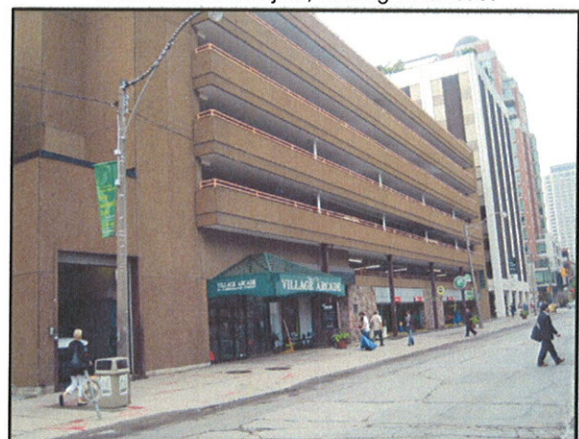
South side of subject, looking north



South side of subject, looking north east



Retail arcade within eastern portion of subject



North side of subject, looking south west

Appendix "B"

Summary of MUC Purchase and Sale Agreement

Summarized below are the basic terms and conditions of the current PSA between the TPA (as "Vendor") and MUC (as "Purchaser"):

1. Vendor – Toronto Parking Authority (TPA)
2. Purchaser – MUC Properties Inc.;
3. Total Consideration:
 - i) Purchase Price – \$44.0 million (*cash proceeds*);
 - ii) An 800 space public parking garage built by the Purchaser at its sole cost in accordance with the TPA specifications with an estimated value of \$32 million; and
 - iii) Purchase Price Bonus – \$60.00 per square foot of Gross Floor Area of the Project in excess of 550,000 square feet of gross floor area (excluding any above grade portion of the parking garage), established when the Project is zoned in final form.
4. Payment of Purchase Price:
 - i) Initial Deposit:
 - a. First Deposit - \$50,000 to be paid upon delivery of the PSA (*payment amount was received*);
 - b. Second Deposit - \$950,000 to be paid upon acceptance of the PSA (*payment amount was received*);
 - c. Third Deposit - \$500,000 to be paid as a non-refundable deposit upon waiver of Purchaser's Conditions (*payment amount was received*);
 - ii) Non-Refundable Deposit - \$1,500,000 to be paid as a non-refundable deposit upon waiver of Vendor's Conditions;
 - iii) Balance of the Purchase Price, subject to adjustments on Closing; and
 - iv) Purchase Price Bonus when the Project is zoned in final form.
5. Interest Payments – The Purchaser will pay interest to the Vendor on the balance due on Closing (Purchase Price less deposit amounts) at an interest rate of 5% per annum calculated from the date of the Vendor's Waiver, payable annually commencing on December 31, 2012 and thereafter on December 31, 2013, December 31, 2014 and December 31, 2015 (the Closing Date) (*This represents approximately \$7.2 million in interest payments by the Purchaser should Closing occur on December 31, 2015 and will be pro-rated should Closing occur earlier*). The Interest Payments paid by the Purchaser are non-refundable.
6. Balance of Purchase Price Payment Amounts - The Purchaser will pay the Vendor 5% of the unpaid balance of the Purchase Price due on Closing, payable annually

on the same dates as noted above under *Interest Payments*. (*This represents approximately \$10.6 million (\$3.0 million deposit plus \$7.6 million payment amount) paid by the Purchaser should Closing occur on December 31, 2015*). The Balance of Purchase Price Payment Amounts paid by the Purchaser on account of the balance due on Closing are non-refundable and will be credited to the Purchaser as an adjustment on Closing.

7. Closing - December 31, 2015, with a right of the Purchaser to accelerate the Closing by delivering notice not less than six (6) months in advance of their intention to close on an earlier date.
8. Construction Security – The Purchaser will be required to provide security in order to secure the Purchaser’s obligation to construct and complete the Parking Garage. These will take the following forms:
 - i) 100% Performance Bond;
 - ii) 100% Labour and Material Bond;
 - iii) Irrevocable Letter of Credit (“LC”) – The LC to be 110% of the cost to complete the entire below-grade portion of the Project (which is to consist of not less than 400 spaces for the Condominium Parking Garage) and 400 spaces of the above-grade Public Parking Garage; and
 - iv) Collateral Charge – The collateral third charge securing the sum of \$50,000 which bears no interest, is to be registered on title. Consistent with the City being the registered owner of the Property, the charge will be in favour of the City. The Collateral Charge will give the City the opportunity to redeem the prior first and second mortgages, in favour of the construction lender and the deposit insurer, respectively, in the event of default thereunder. The Collateral Charge will include the Purchaser’s covenant that until the completion of the Public Parking Garage, the Purchaser’s equity in the Project shall not drop below 20% of the total Project Costs with the land value based on the cash component of the Purchase Price, in the sum of \$44.0 million, paid on Closing, plus the Purchase Price Bonus, if any, to be included when the Project is Zoned in Final Form and paid to the TPA.
9. Parking Garage Construction and Costs – The Public Parking Garage shall contain approximately 800 parking stalls, but not less than 790 spaces, to be built by the Purchaser at its sole cost and expense. The Vendor shall have the option, but not the obligation, to acquire any increase in spaces in the Public Parking Garage in excess of 800 spaces, at a cost of \$40,000.00 per additional space, by giving notice after receiving notice from the Purchaser that the Public Parking Garage will contain more than 800 parking stalls.
10. Purchaser’s Conditions – have been waived or satisfied.
11. Vendor’s Conditions – The PSA is conditional until March 14, 2012, on:
 - i) Approval of the PSA by the Council of the City of Toronto; and

- ii) Approval of the Purchaser's preliminary design drawings for the Condominium Parking Garage having regard to the Vendor's ability to operate same as a public parking facility on an interim basis pending completion of the Public Parking Garage.
12. Temporary Lease-Back - The TPA will lease back the TPA parking facility for use as a commercial parking garage for a term commencing on Closing and continuing until construction of the development commences for the sum of \$90,000 per month as rent (plus HST) ("Monthly Rent"). If the Vendor leases a portion of the Property, rent shall be adjusted pro rata based on the number of parking spaces.
- In addition, a Condition and Structural Assessment prepared by Read Jones Christofferson Ltd. dated March 18, 2011, outlined "Immediate Course of Action" capital expenditures and "Parking Garage Rehabilitation". The Vendor is responsible for these items within three (3) years from the date of the agreement. Any further cost and expenditures of a capital nature relating to the leased parking facility are shared between the Vendor and the Purchaser on a graduated scale.
13. Interruption of Public Parking – The Purchaser estimates that the period of construction of the Project will not exceed thirty (30) months. During this period of interruption, the Purchaser will pay the TPA \$125,000 (plus HST) per month to compensate for the loss of parking revenue from the existing parking operations on the Property during the period of construction until turnover of the Public Parking Garage but if turnover is delayed, the Purchaser will pay an increased sum of \$250,000 (plus HST) per month until turnover of the Public Parking Garage.
14. Remediation Adjustment –There shall be an adjustment to the Purchase Price not to exceed \$160,000 in respect of any incremental costs incurred by the Purchaser in connection with the disposal of hydrocarbon impacted soil at levels in excess of applicable generic criteria under the Environmental Protection Act in O. Reg. 153/04, as amended.
15. Application for Rezoning - The Vendor authorizes the Purchaser to submit any application for municipal approvals required for the Project, which applications shall be submitted not later than one (1) year following the satisfaction or waiver of the Vendor's Conditions, provided the application shall be approved by the Vendor. The Purchaser requires the approval of the Vendor where any change directly affects the layout, operation, or design of the Public Parking Garage.
16. Construction Commencement Deadline – The Construction Commencement Deadline is defined as that date which is the later of forty-eight (48) months from the Closing Date and fifteen (15) Business Days following the Construction Financing Date, subject to contingencies, but in no event later than one hundred and twenty (120) months from Closing.
17. Construction Procedures Agreement – Upon Closing, the Vendor and the Purchaser will enter into an agreement that will set out the guidelines and procedures for construction of the Public Parking Garage and the Project parking

facility;

18. Reciprocal Cost Sharing and Easement Agreement – Upon completion of construction, the PSA requires that the Purchaser, the TPA and the City enter into a reciprocal operating agreement which sets out the terms for the sharing of certain common facilities and the creation of mutual easements, the responsibility for the maintenance / repair of same and the allocation of costs related thereto. As with all of TPA's agreements involving a redevelopment of a property to include a public parking garage, it will be necessary for the City to grant and receive mutual easements with the Purchaser and related rights in favour of each party in order to allow for the proper operation of the Project upon completion;
19. Restrictive Covenant – The PSA imposes a restriction on the Purchaser that:
 - i) No parking spaces within the balance of the Parking Garage or elsewhere upon the Property or any abutting lands owned by the Purchaser or used in connection with the Project, save for the Public Parking Garage, shall be used as a commercial parking lot having parking spaces available on a daily fee, monthly or long-term basis, nor shall such parking spaces be operated by a third-party commercial parking lot operator without prior written consent of the Vendor;
 - ii) The Gross Floor Area of the Project shall not exceed 550,000 square feet without the Vendor's prior written consent.
20. Assignment by Purchaser – Save and except for assignments to Related Parties and to KingSett Capital, the Purchaser shall not assign the Agreement without the prior written consent of the Vendor; and
21. Discretion of the City – The Purchaser agrees that the City of Toronto shall be under no obligation by virtue of any provision of the Agreement to grant approvals, or consents, including approvals or consents relating to the City of Toronto's Official Plan, zoning by-laws, site plan control, minor variances and building permits necessary for any contemplated use by the Purchaser. The Purchaser further agrees that nothing contained in the Agreement shall in any manner limit or restrict the normal exercise of discretion by the various municipal departments and officials or fetter the discretion of City Council or by any delegated authority in any way, including the Purchaser's development application. The Purchaser is expected to be the development applicant on this Project.