

## Attachment 1 – Term Sheet

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### Term Sheet - General Terms for the First Parliament Site 271 Front Street East and 25 Berkeley Street

<b>Date:</b>	July 11, 2012
<b>To:</b>	City Council
<b>From:</b>	Chief Corporate Officer

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- 1) **Parties:** City of Toronto ("City")  
271 Front Inc. and 565910 Ontario Limited or the then-current owner  
(hereinafter collectively referred to as "Bresler")

2) **Lands to be Exchanged:**

The City shall grant and transfer to Bresler the following lands:

Land on the south-east corner of Front Street East and Parliament Street, Toronto designated by property identifier number 21077-0025 (LT) shown as part 1 on the sketch attached as Attachment 3 hereto ("City Lands"); and

Bresler shall grant and transfer to the City the following lands:

Land on the south-west Front Street East and Parliament Street, Toronto, designated by property identifier numbers (i) 21092-0249 (LT) and (ii) 21092-0248(LT) and shown as part 2 on the sketch attached as Attachment 3 hereto (the "Property")

(the City Lands and the Bresler Lands are hereinafter collectively referred to as the "Lands")

3) **Representations and Warranties:**

- I. Each party acknowledges and agrees, and shall confirm and agree on the date of closing:
- (i) that each of the City Lands and the Bresler Lands are being sold "as is, where is", including their environmental condition, state of repair, deficiencies and encroachments;
  - (ii) that neither Party has made, any warranty or representation with respect to the physical or environmental condition of its respective Lands or of any

buildings or structures on its respective Lands, including the condition of the soil or groundwater, both surface and subsurface, the existence of any sub-surface installations or the existence of any hazardous substance or contaminate, in, on, under or in the vicinity of its respective Lands, or with respect to any deficiencies or encroachments affecting its respective Lands;

(iii) neither Party shall have liabilities or obligations with respect to the value, state, or condition of its respective Lands or of any buildings or structures on its respective Lands, environmental or otherwise, whether or not the matter is within the knowledge or imputed knowledge of the City or Bresler, its officers, employees, agents, representatives, contractors or elected and appointed officials; and

(iv) that the Parties shall rely entirely upon their own inspections and investigations and acknowledge that the Lands are being acquired on an "as is, where is" basis.

II. The Agreement shall contain such covenants, representations and warranties as agreed to by the parties and having regard to the "as is, where is" nature of the transaction. Any representations and warranties shall survive closing for a period of 12 months. There is no condition, representation, or warranty, of the present use or any future intended use of each of the Lands.

**4) Conditions:**

I. Declare Surplus Condition:

The obligation of the Parties to complete the Land Exchange Agreement is conditional on City Council having satisfied all requirements of the *City of Toronto Act, 2006*, and the City's disposal policy (being Chapter 213 of the City of Toronto Municipal Code) necessary to enable the sale of the City Lands to Bresler, as contemplated herein. This condition is herein referred to as the "Declare Surplus Condition". If the Declare Surplus Condition is not satisfied prior to the Due Diligence Period, the Land Exchange Agreement shall be at an end.

II. Data Centre Approvals and Site Development Condition:

The obligation of Bresler to complete the Land Exchange Agreement is conditional on Bresler:

(i) Obtaining, with any appeal rights having expired, the passage of the requisite approvals from the Committee of Adjustment for the construction of a proposed data centre similar to those plans submitted to the City for Site Plan Approval (Folder Number 12 170657 STE28SA) on May 10,

2012 (the “**Data Centre**”) on the City Lands on or before September 3, 2012;

- (ii) Obtaining, with further appeal rights having expired, the passage of the requisite By-Law removing the Holding (h) by-law on the City Lands on or before October 24, 2012;
- (iii) Obtaining a Notice of Approval Conditions (NOAC) identifying approved plans and conditions for final approval of the proposed Data Centre on the City Lands on or before October 4, 2012;
- (iv) Obtaining a final Statement of Approval for site plan of proposed Data Centre on the City Lands on or before October 24, 2012;
- (v) Obtaining a below grade building permits for Data Centre on the City Lands on or before October 4, 2012;
- (vi) Obtaining building permits for full construction permits for Data Centre on the City Lands on or before October 24, 2012;
- (vii) Obtaining, if eligible, the passage of a By-law and all other approvals required under the City-Wide Community Improvement Program (By-law No. 516-2008) and tax cancellation provisions in Section 333 of the City of Toronto Act, 2006, so as to provide Bresler with the maximum tax relief/assistance for brownfield remediation and development costs to be incurred on the City Lands on or before October 4, 2012; and
- (viii) Entering into a satisfactory Development Agreement with Waterfront Toronto for the development of the North portion of the City Lands with a residential/commercial complex, in a matter consistent with the West Donlands Precinct Plan and the West Donlands Block Plan and Design Guidelines.

The Data Centre Approvals and Site Development Condition are inserted for the sole benefit of Bresler, and may be waived by it at any time.

### III. Due Diligence Condition:

The Parties shall have an agreed-upon time period (the "Due Diligence Period") to conduct their respective due diligence (the "Due Diligence Condition").

The Parties will cooperate in facilitating such due diligence investigations, including permitting the release of information and providing any and all documents in their possession and control relating to the lands within five (5) business days of execution of the Agreement. The City and Bresler and their consultants and representatives will be afforded reasonable access to the City Lands and the Bresler Lands to undertake surveys and such geotechnical and

environmental tests as the Parties may, in their discretion require, provided that the Party performing such investigations shall restore the relevant Lands to their original condition at its sole costs and expense.

The City's due diligence investigations may be based upon its satisfaction that it will obtain, prior to the Closing Date, all requisite approvals.

IV. Environmental Remediation Cost Condition

Each Party shall, prior to the expiry of the Due Diligence Period, hire a qualified person (the "QP") to conduct an assessment of the environmental condition of the lands that it will be acquiring. The QP shall determine the cost associated with remediation of the lands to be acquired by each Party to a standard agreed-upon by the Parties (the "Environmental Remediation Cost").

If the QP determines:

- (a) that the Environmental Remediation Cost for the Bresler Lands exceeds the Environmental Remediation Cost of the City Lands by twenty per-cent (20%) or more then, the City shall have the right to terminate the Agreement; or
- (b) that the Environmental Remediation Cost for the City Lands exceeds the Environmental Remediation Cost of the Bresler Lands by twenty per-cent (20%) or more then, Bresler shall have the right to terminate the Agreement.

V. Title:

Each of the City and Bresler shall be allowed until Fifteen (15) days from the expiry of Due Diligence Period (the "Requisition Period") to examine at its own expense the title to the City Lands and the Bresler Lands (as applicable), and to satisfy itself that:

- a) the title to the City Lands and the Bresler Lands (as the case may be) are good and marketable in fee simple, and without limitation, free from all charges, liens, registered restrictions, easements, rights-of-way and other encumbrances except as otherwise specifically provided in the Agreement; and
- b) there are no outstanding orders, deficiency notices or directives issued by any federal, provincial or municipal authority affecting the City Lands and the Bresler Lands (as the case may be).

**5) Toronto Public Library Board Relocation**

Bresler shall lease to the Toronto Public Library Board, subject to any prior approvals required by the City or by the Toronto Public Library Board, the building and lands at 281 Front Street East for a term of 18 months from the Closing Date, at no cost to the City,

save and except reasonable operating costs (which, for greater certainty, shall not include any capital costs or management fees).

The City would therefore have 18 months to find, build or renovate and move the library to a different location.

The building that could be constructed for the amount specified in the confidential attachment would be substantially different from the existing facility. It would have to be built on existing City land. Although a possible location (the "Relocation Site") has been suggested, discussions with several Departments using the Relocation Site would have to take place to work out the logistical issues with the Relocation Site and whether or not the various operational requirements could accommodate the Library expansion.

The Parties acknowledge that it will be difficult to relocate the Library facility in the 18 month term and if an extension is required, then both Parties will use their best efforts to negotiate an extension of the term of the lease. There is a risk that the facility cannot be completed in 18 months, which could result in further leasing costs. There is no provision for leasing costs in the Toronto Public Library Board's budget.

**6) Costs**

Each of the Parties hereto shall be responsible for and bear all of its own costs and expenses incurred in connection with the transaction contemplated herein.

**7) West Donlands Precinct Plan**

The City Lands are part of the West Donlands Precinct and Block Plans. As such removal of the site from Waterfront Toronto's ("WT") long-term West Donlands ("WDL") Plan would constrain options with respect to planning conceptual locations for affordable compared to market housing across the precinct.

WT has requested the right to review any development applications of the site in order to ensure that the proposal does not generate service or other infrastructure requirements that will eventually need to be satisfied by the developers of other WDL blocks.

**8) Bresler Planning Report**

During the expropriation proceedings and the negotiations of the transaction contemplated herein the City will continue to process Bresler's existing application for approval to construct and operate a data centre on the Bresler Lands in accordance with the city's standard practices and procedures for processing such applications.

**9) Budget Rent-A-Car**

Should a Section 30 Agreement be negotiated and settled, the city shall allow Budget Rent-A-Car to remain on the Bresler Lands until March 31, 2013 at no basic rent, save and except reasonable operating costs, on the City's standard form of Licence Agreement.

**10) Site Trailer**

Should a Section 30 Agreement be negotiated and settled, the City shall allow Bresler to occupy a portion of the Bresler Lands for a period of 18 months, at no basic rent, save and except reasonable operating costs, on the City's standard form of Licence Agreement.