

Transfer to Build Toronto – Below-Grade Portion of Harbour Street

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| Date: | August 23, 2013 |
| To: | Government Management Committee |
| From: | Chief Corporate Officer |
| Wards: | Ward 20 |
| Reference Number: | P:\2013\Internal Services\Re\Gm13022re – AFS 18148 |

SUMMARY

This report recommends the terms of transfer to Build Toronto of a below-grade stratified portion of Harbour Street shown as Part 1 on Sketch No. PS – 2013-028, ("the Property"). The Property was declared surplus for this purpose by the Chief Corporate Officer on August 23, 2013, conditional upon City Council approving the permanent closure of the Property as a public highway. The Property is required to be transferred to accommodate a portion of a below-grade parking garage to be developed to serve the mixed use development on the adjoining property at 120 to 130 Harbour Street and 10 York Street, of which Build Toronto is a joint venture partner.

The Property is being reported on individually due to the urgent time frame for the commencement of the construction of this development project as approved in Item TE20.8 by City Council on November 27, 28 and 29, 2012. There is a companion report from the General Manager of Transportation Services to Toronto and East York Community Council recommending the permanent closure of the portion of Harbour Street described as the Property that is intended to be considered at the same meeting of City Council.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council grant authority to enter into an agreement to transfer a stratified portion of the Property municipally known as Harbour Street, more particularly described in Appendix 2, including any agreements related thereto, to Build Toronto, substantially on the terms and conditions set out in Appendices 1 and 2 attached, and on such other and amended terms and conditions as may be approved by the Chief Corporate Officer, in a form satisfactory to the City Solicitor.
2. City Council direct that the authority granted in Recommendation 1 be subject to compliance with Section 12 of Ontario Regulation 609/06.
3. City Council grant authority to fund the City's outstanding expenses related to the Property from the Approved Operating Budget for Facilities Management and Real Estate (FM&RE), in the year(s) that the expenses are incurred, as necessary, and, once these expenses are known, to transfer the funding for these expenses from the Land Acquisition Reserve Fund (LARF), with appropriate adjustments to FM&RE's Approved Operating Budget, as necessary, through subsequent Quarterly Variance Reports.
4. City Council authorize severally each of the Chief Corporate Officer and the Director of Real Estate Services to execute the transaction documents and agreements required to implement the Recommendations in this report on behalf of the City, including the execution of any required consents, approvals or permissions.
5. City Council authorize the City Solicitor to complete the transaction provided for in this report on behalf of the City, including making payment of any necessary expenses, amending the closing and other dates to such earlier or later date(s), and amending or waiving the terms and conditions, as she may from time to time consider reasonable.
6. City Council authorize and direct the appropriate City officials to introduce in Council any Bills necessary to give effect to the foregoing.

Financial Impact

As the Property is being transferred to Build Toronto for nominal consideration, no revenue will be available to cover the expenses of effecting the transfer, such as registration charges that would normally be for the account of the vendor in a transaction of purchase and sale, survey fees, appraisal fees, etc. As the total of the expenses related to the Property is not known at this time, it is recommended that these expenses be accommodated within FM&RE's Approved Operating Budget, in the year(s) that the expenses are incurred, as necessary, and that, once these expenses are known, funds be

provided from the LARF. Budget transfers to adjust FM&RE's Approved Operating Budget, as necessary, funded from the LARF through subsequent Quarterly Variance Reports, are also recommended.

Build Toronto will be responsible for the costs of relocating any existing infrastructure that will be impacted by the closure and conveyance of the Property to the satisfaction of the General Manager of Construction and Engineering Services and the General Manager of Toronto Water.

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

DECISION HISTORY

On November 27, 28 and 29, 2012, City Council adopted Item TE20.8, as amended, to permit a mixed use development at 120 to 130 Harbour Street and 10 York Street with retail at grade and 726 residential units. City Council's amendments to the draft zoning by-law for the project included replacing the section on parking spaces with the following:

- "6. Parking spaces shall be provided and maintained on the site or below grade off-site within 6 metres of the southern property line of the site in a parking garage in accordance with the following requirements:
- a) a maximum of 264 residential parking spaces;
 - b) a maximum of 25 visitor parking spaces."

Background Information (Community Council)

(October 19, 2012) Report from the Director, Community Planning, Toronto and East York District - 120 to 130 Harbour Street and 10 York Street - Official Plan Amendment and Zoning Amendment Applications - Final Report
(<http://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-51448.pdf>)

(November 5, 2012) Supplementary Report - 120 and 130 Harbour Street and 10 York Street - Official Plan Amendment and Zoning Amendment Applications
(<http://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-51810.pdf>)

COMMENTS

In accordance with the City's Real Estate Disposal By-law No. 814-2007, the Property was declared surplus on August 23, 2013 by Delegated Approval Form (DAF) No. 2013-182, conditional upon City Council approving the permanent closure of the Property as a public highway, with the intended manner of disposal to be by way of a transfer to Build Toronto. At the time this report is considered by the Government Management Committee, 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 will have been completed.

In DAF No. 2013-183, dated August 23, 2013, the Chief Corporate Officer authorized the General Manager, Transportation Services, to give notice to the public of a proposed by-law to close the Property in accordance with the requirements of City of Toronto Municipal Code Chapter 162 and the Municipal Class Environmental Assessment for Schedule "A+" activities.

As Harbour Street is immediately south of the 120 to 130 Harbour Street and 10 York Street development site, City Council, through its adoption in November 2012 of Item TE20.8, as amended, has already contemplated the requirement that a portion of the parking garage is to be below-grade under a portion of Harbour Street. Architectural Plans and surveys have been prepared that delineate the dimensions of the five levels of parking garage that will extend into the Property.

In the City Council approved conditions of the 120 to 130 Harbour Street and 10 York Street development, the developer is to dedicate a portion of the development site along its northern limit for the widening of Lake Shore Boulevard West to the required dimension in the Official Plan. This requirement has added to the constraints on this development site and required the extension of the parking garage into a below-grade portion of Harbour Street.

Build Toronto will be responsible for the costs of relocating any City services and public utilities that will be impacted by the closure and conveyance of the Property. An existing 300 mm watermain will have to be relocated to the south to provide Toronto Water's minimum 3 m separation from the wall of the parking garage. The proposed relocation of the watermain would create a separation distance between City services that is below City standards, but Toronto Water has agreed to this situation, provided Toronto Water's requirements are satisfied.

Other affected utilities include light standards along this section of Harbour Street that are being removed by Toronto Hydro at the cost of the developer, to accommodate the development. There is also a Rogers fibre optic line which will be relocated at the cost of the developer.

The construction of the parking garage within the Property will require the developer to obtain permits from Transportation Services for the hoarding of the construction area, the construction of caissons around the excavation site, and the relocation of the watermain within Harbour Street, which will require that part of Harbour Street to be temporarily closed for approximately two years.

Local Councillor Consultation: The Ward Councillor agrees with the below-grade strata that is proposed to be transferred to Build Toronto.

Following consultation with City Planning, the Ward Councillor and Build Toronto, the Director of Real Estate Services recommends that the City transfer the Property to Build Toronto and retain the strata above the Property, the lower limit of which commences at an elevation of 1.2 m to 1.5 m below-grade, and retain the strata below the Property, the upper limit of which commences at an elevation of 19.9 m to 20.2 m below-grade (see Appendix 2).

Implementation of the recommendations in this report will contribute to Build Toronto's joint venture activities in the development of 120 to 130 Harbour Street and 10 York Street, which has already been transferred to Build Toronto, and will help to enhance and realize the value of this development site.

CONTACT

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SIGNATURE

Josie Scioli
Chief Corporate Officer

ATTACHMENTS

Appendix 1– Terms & Conditions for Transfer Agreement
Appendix 2 – Below-grade Portion of Harbour Street