



STAFF REPORT ACTION REQUIRED

Authorization to Release Section 37 Funds from 783 Bathurst Street, and to Enter into a Shared Use Agreement for Community Improvements to create Privately Owned Publicly Accessible Open Space on Central Technical School lands at 693 Bathurst Street abutting Bathurst and Harbord Streets

Date:	September 25, 2015
To:	City Council
From:	City Solicitor and Chief Planner and Executive Director, City Planning
Wards:	Ward 20
Reference Number:	

SUMMARY

Section 37 funds have been secured and received in connection with the development at 783 Bathurst Street in the amount of \$450,000 plus accrued interest for the purpose of community improvements in Ward 20 in the vicinity of 783 Bathurst Street. This report seeks authorization to release Section 37 funds in the amount of \$462,762.21 to Raizenne Inc. and to enter into a Shared Use Agreement with the Toronto District School Board (the "TDSB") and Raizenne Inc. for the purposes of creating certain public realm improvements on Central Technical School lands at 693 Bathurst Street. The public realm improvements will include landscaping improvements abutting the northeast corner of Bathurst and Harbord Streets to create a form of Privately Owned Publicly Accessible Open Space (POPS), removing and replacing a chain link fence with a new iron fence along the Bathurst Street frontage to be located to the east of the trees lining Bathurst Street as well as removing and replacing a chain link fence with a new iron fence along a portion of the Harbord Street frontage (collectively referred to as the "Public Realm Improvements").

RECOMMENDATIONS

The City Solicitor and the Chief Planner and Executive Director, City Planning, recommend:

1. City Council increase the approved 2015 Operating Budget for Non-Program by \$462,762.21 gross, \$0 net, fully funded by Section 37 funds received from the development at 783 Bathurst Street (Source Account: XR3026-3700497) for public realm improvements at Central Technical School located at 693 Bathurst Street that include landscaping improvements abutting the northeast corner of Bathurst and Harbord Streets to create a form of Privately Owned Publicly Accessible Open Space (POPS), removing and replacing a chain link fence with a new iron fence along the Bathurst Street frontage to be located to the east of the trees lining Bathurst Street as well as removing and replacing a chain link fence with a new iron fence along a portion of the Harbord Street frontage (collectively referred to as the “Public Realm Improvements”).
2. City Council authorize the Director, Community Planning, Toronto and East York District, to negotiate and enter into a Shared Use Agreement with the Toronto District School Board (“TDSB”) and Raizenne Inc. for the Public Realm Improvements referred to in Recommendation No. 1, in consultation with the Ward Councillor and to the satisfaction of the City Solicitor, including the following requirements:
 - a. Raizenne Inc. shall construct the Public Realm Improvements in accordance with the City's construction standards and with detailed plans and cost estimates approved by the Director, Community Planning, Toronto and East York District;
 - b. Raizenne Inc. shall comply with all relevant City policies as applicable, including the City's Fair Wage Policy, the Labour Trades Construction Obligations in the Construction Industry Policy, and the Declaration of Compliance with Anti-Harassment/Discrimination Legislation Policy in constructing the Public Realm Improvements;
 - c. The \$462,762.21 shall be forwarded to Raizenne Inc. directly, in accordance with an agreed to payment schedule approved by the Director, Community Planning, Toronto and East York District;
 - d. Any cost overruns shall be the responsibility of Raizenne Inc., and not of the City or TDSB. In the event that the costs of the Public Realm Improvements are less than \$462,762.21, Raizenne Inc. will be required to return any unspent Section 37 funds that it has received to the City upon completion of the project as it relates to these improvements;

e. The Shared Use Agreement shall also:

- Address ongoing maintenance obligations in respect of the Public Realm Improvements;
- Set out financial reporting requirements; and
- Secure community access for a minimum of twenty (20) years;

all on terms and conditions satisfactory to the Director, Community Planning, Toronto and East York District and in a form to the satisfaction of the City Solicitor.

3. City Council authorize and direct City Officials to take such action as is necessary to implement the foregoing.

Financial Impact

Community Improvement to create the Public Realm Improvements on the TDSB Central Technical School lands at 693 Bathurst Street in the amount of \$462,762.21 gross and \$0 net is fully funded from available Section 37 funds. There is no net impact to the 2015 Approved Non-Program Budget.

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

DECISION HISTORY

City Council on February 10 and 11, 2015, endorsed a settlement proposal in order to settle the TDSB's appeal of its minor variance application in respect of its proposal to pair with a private operator, Raizenne Inc., to construct and operate an artificial turf field and running track, as well as a temporary dome structure with heating for use during winter months at 693 Bathurst Street:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC3.1>

ISSUE BACKGROUND

The proposed sports facility at Central Technical School was the subject of a lengthy OMB-assisted mediation, involving a number of parties, including the City; the TDSB; Raizenne Inc.; the Harbord Village Residents' Association ("HVRA"); the Palmerston Area Residents' Association ("PARA"); the Friends and Neighbours of Central Technical School ("FANCTS"); and Ceta Ramkhalawansingh (collectively, the "Parties").

The issues raised by the City and some of the other Parties in relation to the proposed facility included the lack of accessible green space in the vicinity of Central Technical School and the need to secure appropriate community access to the facility, as well as the

opportunity for streetscape improvements along Bathurst Street and Harbord Street adjacent to the field. The school is located in an area of the City that has the lowest parkland provision, and the community has traditionally benefitted from free access to the field.

The Council-endorsed settlement reached between the Parties includes a requirement for Raizenne Inc. to make improvements to the school lands where they abut Bathurst and Harbord Streets, including an expanded public space next to the intersection of the two streets, removing and replacing the chain link fence with a new iron fence along the Bathurst Street frontage to be located to the east of the trees lining Bathurst Street as well as removing and replacing the chain link fence with a new iron fence along a portion of the Harbord Street frontage (collectively referred to as the “Public Realm Improvements”). These requirements are subject to the City contributing available Section 37 funds, and the City, the TDSB and Raizenne Inc. entering into a Shared Use Agreement setting out the details with respect to public access, remediation, construction, and maintenance of the Public Realm Improvements.

Authority is required from City Council in order to release the available Section 37 Funds to Raizenne Inc., and to enter into a Shared Use Agreement securing public access in order to implement the Council-endorsed settlement.

COMMENTS

The Section 37 Agreement respecting the 783 Bathurst Street development site provides for community improvements in Ward 20, in the vicinity of the development, which may include parks and public realm improvements. The 783 Bathurst Street development is located in Ward 20, roughly 30 metres north of the Central Technical School lands. The Public Realm Improvements on the TDSB lands will provide the community with an improved streetscape along the east side of Bathurst Street, including public access to green space and trees directly abutting the sidewalk on the right-of-way. As well, the improvements will provide the community with a landscaped open space located at the northeast corner of Bathurst and Harbord Streets that will be accessible to the public.

A Shared Use Agreement will be signed between the TDSB, the City and Raizenne Inc. to ensure that reasonable public access to these areas is secured for a minimum of twenty years. The Agreement will also contain provisions governing the purpose of the funds, financial reporting requirements, as well as remediation, construction, and maintenance of the improvements.

Raizenne Inc. has entered into a License Agreement with the TDSB to construct the proposed sports facility. As Raizenne Inc. will be undertaking remediation and construction activity on-site, including the replacement of the existing chain link fence on the portions of the site not fronting on Bathurst or Harbord Streets, it is appropriate for Raizenne Inc. to undertake the Public Realm Improvements in conjunction with the construction of the new facility, and for the available Section 37 funds to be released directly to Raizenne Inc. for these purposes.

While the exact cost of the Public Realm Improvements is not presently known, it is anticipated that the total cost will exceed the \$462,762.21 of Section 37 funds available, and that Raizenne Inc. will be responsible for any additional costs. In the event that the costs of making these improvements are in fact less than the Section 37 funds provided to Raizenne Inc., the Shared Use Agreement will require that Raizenne Inc. return any unspent Section 37 funds to the City upon completion of the project as it relates to these improvements.

Lennox Street Space

The Council-endorsed settlement recognizes that the Parties will continue discussions concerning the potential remediation and landscaping of an open space area on the Central Tech campus near Lennox Street, north of the main Central Tech building (the “Lennox Street Space”). The potential for City funds to be contributed to capital improvements for the Lennox Street Space in exchange for secured community access was to be further considered when seeking direction from City Council for the release of Section 37 Funds for the Public Realm Improvements along Bathurst and Harbord Streets. At this time, there are no further Section 37 funds available in the Ward to direct to the Lennox Street Space, although the Parties may continue to explore opportunities to improve this open space area in the future.

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SIGNATURE

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