GM15.13



STAFF REPORT ACTION REQUIRED

Purchase of Parking Garage Sublease at 51 Dockside Drive, Toronto

Date:	October 4, 2016
То:	Government Management Committee
From:	President, Toronto Parking Authority
Wards:	Ward 28 Toronto Centre – Rosedale
Reference Number:	TPA File No.: 5286-00

SUMMARY

The purpose of this report is to obtain Council's authorization to complete a purchase and sale agreement ("PSA") currently being negotiated between the Toronto Parking Authority (the "TPA") and Toronto Waterfront Revitalization Corporation ("Waterfront Toronto") and The George Brown College of Applied Arts and Technology ("George Brown") (collectively referred to as the "Co-Owners" and/or the "Vendor"). The transaction involves the acquisition of a 100% subleasehold interest with respect to a 307-space underground parking garage (the "Parking Garage") forming part of the George Brown Waterfront Campus building municipally located at 51 Dockside Drive, Toronto (the "Property"). The Co-Owners are selling 100% of their collective subleasehold interest in the Parking Garage under a 99-year sub-lease agreement (the "Parking Garage Sublease") with George Brown, as sub-landlord, which Parking Garage Sublease has a remaining term of approximately 95 years and which is subject to a ground lease agreement between George Brown, as tenant, and City of Toronto, as landlord.

RECOMMENDATIONS

The Toronto Parking Authority recommends that:

1. City Council authorize the acquisition by the City of all of the interests of Toronto Waterfront Revitalization Corporation and The George Brown College of Applied Arts and Technology (collectively the "Vendor") in the sub-lease ("Parking Garage Sublease") for a 307-space underground parking garage (the "Parking Garage") forming part of the George Brown Waterfront Campus Building municipally located at 51 Dockside Drive subject to the following:

- a. The acquisition shall be completed by the City entering into an agreement for the assignment and assumption of the Parking Garage Sublease and other agreements pertaining to the Parking Garage, substantially in accordance with the major terms and conditions of the purchase and sale agreement set out in Appendix "A", together with such other terms and conditions as the Chief Corporate Officer, in consultation with the Toronto Parking Authority may deem appropriate, and in form satisfactory to the City Solicitor;
- b. Toronto Parking Authority Board approval of the transaction; and
- c. Toronto Parking Authority agreement to assume all financial and operational obligations under the purchase and sale agreement, the Parking Garage Sublease and all other agreements pertaining to the Parking Garage.
- 2. City Council direct that prior to the closing of the transactions described in Recommendation 1, the City Solicitor shall be in receipt of appropriate title opinions from the solicitor for the Toronto Parking Authority, in form and content satisfactory to the City Solicitor.
- 3. City Council direct that the subleasehold interest in the Parking Garage Sublease and the Parking Garage to be acquired by the City be designated for municipal parking purposes and managed by the Toronto Parking Authority.
- 4. City Council direct that the 2016-2025 Capital Budget and Plan for Toronto Parking Authority be amended by adding a project "51 Dockside Drive Parking Garage Sublease", with a project cost of \$16.40 million, and a cash flow in the same amount in 2017, fully funded from the Toronto Parking Authority's retained earnings.
- 5. City Council authorize the City Solicitor to complete the transactions contemplated under the purchase and sale agreement, deliver any notices, pay any expenses and amend the closing and other dates to such earlier or later date(s) on such terms and conditions as the City Solicitor may determine from time to time.

FINANCIAL IMPACT

The total estimated costs to the TPA of this purchase are \$15.75 million plus closing and land transfer fees estimated at \$0.65 million, for a total acquisition cost of \$16.40 million. As part of the transaction, the Vendor will transfer its 100% subleasehold interest in the Parking Garage having a total of 307 below-grade parking spaces. The TPA is expecting the acquisition of the subleasehold interest in the Parking Garage 51 Dockside Drive to close in January 2017, when actual payment will take place.

Since this subleasehold interest acquisition has not been anticipated at the time of the 2016-2025 Capital Budget and Plan approval, it is recommended that a new project with estimated project costs of \$16.40 million, cash flowed in 2017, be added. This project will be fully funded from the Toronto Parking Authority's retained earnings.

A financial analysis undertaken by the TPA indicates that based on historical activity for comparable sized garages in similar locations and rate structures, this project will achieve an Internal Rate of Return (IRR) which meets TPA's minimum required IRR of 5.0% over the 95 year period, which is consistent with TPA's revenue return expectations.

Based on past net profit history, Toronto Parking Authority anticipates an operating impact of this project of \$0.414 million in net revenues annually, starting in 2017. This operating impact will be included in the TPA's 2017 Operating Budget Submission.

As part of TPA's due diligence, TPA will review Waterfront Toronto's audited financial statements and will retain an independent third party cost consultant in order to verify that the purchase price to be paid, being the sum of \$15.75 million or \$51,300 per space for the subleasehold interest in the Parking Garage is not in excess of the approximately \$100,000 per space cost to construct the garage which opened in October 2014.

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

DECISION HISTORY

In March 2016, the TPA was selected as the successful proponent following an RFP process related to the sale of 100% of the subleasehold interest of the Vendor in the Parking Garage. The TPA and the Vendor have been negotiating the terms of the PSA.

At its meeting of March 22, 2016 (*TPA Board Minute No.: 16-046*), the TPA Board of Directors approved the PSA with the Vendor involving the acquisition by the TPA of a 100% subleasehold interest in the Parking Garage.

At its meeting of July 28, 2016 (*TPA Board Minute No.: 16-118*), the TPA Board of Directors received for information purposes only, a TPA staff report providing a summary of amended terms and conditions of the PSA.

At its upcoming meeting of October 20, 2016, a subsequent report will be tabled seeking approval of the TPA Board of Directors of an amended PSA. A summary of the major terms and conditions of the draft PSA are detailed at Appendix 'A'.

The City Manager and staff responsible for the City-Wide Real Estate Review have been notified of this pending transaction in accordance with staff report EX16.4 adopted June 28, 2016.

ISSUE BACKGROUND

The City of Toronto owns the Property. The land is leased to George Brown under the terms of a 99 year ground lease dated December 16, 2010. The building located on the Property is owned by George Brown as its Waterfront Campus but ownership will revert to the landlord when the ground lease expires. George Brown subleases the Parking Garage to the Co-Owners with Waterfront Toronto having a 74.2% subleasehold interest and George Brown having a 25.8% subleasehold interest pursuant to the Parking Garage Sublease. The relationship between the Co-Owners is governed by a co-owners' agreement.

Under the terms of the co-owners' agreement, a Co-Owner may transfer its' subleasehold interest and can sell, either individually or collectively, its subleasehold interest in the Parking Garage to a third party. Since the Co-Owners have made capital contributions to the construction of the Parking Garage, neither Co-Owner has any further obligation to pay base rent under the Parking Garage Sublease. The Parking Garage Sublease is fully net to the sub-lessor requiring that additional rent (utility costs, insurance, common area costs and operating costs), maintenance costs and future capital costs to maintain and repair the Parking Garage to be the sole responsibility of and be paid by the sub-lessee.

The leasehold interest in the Parking Garage was marketed for sale by Ernst & Young Orenda Corporate Finance since November 2015. Interested parties were requested to submit a term sheet outlining the purchase price and any other terms and conditions. The TPA was subsequently selected as the successful bidder and entered into an exclusive 60 day due diligence period with the Vendor to review the physical asset, its legal structure, and its financial performance. The TPA has since been granted further extensions to its' due diligence period to obtain all necessary TPA approvals, including Council approval.

TPA staff are completing the requisite due diligence review related to the acquisition of the subleasehold interest in Parking Garage. The PSA is currently being negotiated and will contain conditions in favour of the TPA, one of which is obtaining City Council approval of the transaction.

COMMENTS

SITE LOCATION AND PARTICULARS

The Parking Garage is located south of Queens Quay between Lower Jarvis Street and Lower Sherbourne Street (see attached *Site Location Map*). Consisting of three (3) underground levels located underneath George Brown's Waterfront Campus, it contains 297 spaces behind a gated parking system and 10 spaces outside the gate on the first level – 5 of which contain electronic vehicle charging stations. Currently the Parking Garage is managed on behalf of the Co-owners by SP+ Parking (Standard Parking of Canada Ltd.) (refer to attached *Appendix 'B' – Property Photo and Aerial Image of Surrounding Neighbourhood*).

Parking Supply and Demand

It is anticipated that the demand for commercial parking will increase significantly over the next several years as future planned developments within the immediate neighbourhood are completed. Currently the immediate area contains a mix of retail, corporate and industrial complexes including Loblaws, LCBO and its corporate office, Toonbox Entertainment corporate office, Volvo dealership, FedEx Shipping Centre, Pinnacle Condo and Redpath Sugar Refinery. In addition, the Parking Garage supplies parking for up to 230 monthly permit holders, at market rates through to December 31, 2049, for the Corus Quay Building located directly west of the Property.

Future development plans for the area include:

- Daniels Waterfront City of Arts, a mixed use community containing a fourtower project with 1.32 million square feet of residential retail and office. Phase I, being a 45 storey, 534 unit tower is scheduled for completion in 2019.
- Future development of the LCBO property located at 55 Lakeshore Blvd. E., which will eliminate approximately 360 parking spaces that exist on the site today.
- Menkes Development A proposed Waterfront Innovation Centre which will contain approximately 350,000 square feet of commercial space and 115 commercial parking spaces for more than 2,000 employees. This development is located directly north of the Parking Garage and will eliminate 200 surface commercial parking spaces when built.
- Other developments in the immediate area include the Hines-Tridel towers (Aqualina and Aquavista) and Great Gulf's Monde project.

Each of these developments will eliminate current surface parking when construction commences and increase demand for commercial parking when completed (refer to Appendix 'C' – Existing Market Area Parking Supply and Appendix 'D' - Intermediate Term Market Area Parking Supply (i.e.: over five (5) years)).

Purchase and Sale Agreement (PSA) – Summary of Terms and Conditions

Summarized at Appendix 'A' are the major terms and conditions of the draft PSA between the TPA (as "Purchaser") and Toronto Waterfront Revitalization Corporation and The George Brown College of Applied Arts and Technology (collectively referred to as the "Vendor"). Upon closing, the City will acquire 100% of the subleasehold interest in the Parking Garage under the Parking Garage Sublease. The TPA will be responsible for all operational and financial matters relating to the Parking Garage, including repair and maintenance obligations, and cost sharing expenses pursuant to the provisions of the Parking Garage Sublease.

Financial Analysis and Conclusion

The sale of the subleasehold interest by the Co-owners maximize the upfront payment while maintaining the terms of the existing Parking Garage Sublease for the remaining 95 years of the term of the Parking Garage Sublease. Based on TPA's review and analysis of existing and future revenue, direct and shared operating costs over the Lease Term, an allowance for TPA exclusive operating signage and technology expenses, and the inclusion of a 100 year lifecycle Capital Plan prepared by an independent third party, the TPA has offered an upfront payment of \$15.75 million, or approximately \$51,300 per space. The TPA will review Waterfront Toronto's audited financial statements and will retain an independent third party cost consultant in order to verify that the purchase price to be paid for the subleasehold interest in the Parking Garage is not in excess of the approximately \$100,000 per space cost to construct the garage which opened in October 2014. Using a 2.0% inflation factor, the calculated return over the period exceeds TPA's benchmark internal rate of return of 5.0%.

Under the Toronto Waterfront Revitalization Corporation Act, Waterfront Toronto is scheduled to be wound up no sooner than their 20th anniversary date or May 15, 2023. Under the terms of the transaction, and provided George Brown College remains the Head Tenant under the Head Lease and Sub-landlord under the Parking Garage Sublease, Waterfront Toronto will assume any obligation to pay realty taxes or payments in lieu related to the parking garage, if assessed, until the earliest wind up date being May 15, 2023. The TPA will ensure that the City receives payment from Waterfront Toronto equal to the tax levy.

TPA staff informed the local area Councillor, Pam McConnell of the pending acquisition of the subleasehold interest in the Parking Garage and she is supportive of the proposed acquisition. She understands the importance of preserving the area's inventory of public parking to support the level of anticipated new development planned within the market area over the next 3 to 5 years.

Conclusion

This leasehold acquisition opportunity provides a number of financial benefits that add value for the TPA, and therefore of benefit to the City and the TPA, namely:

- > The level of development intensification planned for the immediate market area supports the economic viability of the Parking Garage at the Property,
- > TPA's benchmark criteria used to assess the merits of this transaction have been achieved, and
- The consideration to be paid by the TPA for the leasehold interest in the Parking Garage does not exceed the cost to construct the garage.

CONTACT

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SIGNATURE

Lorne Persiko, President

ATTACHMENTS

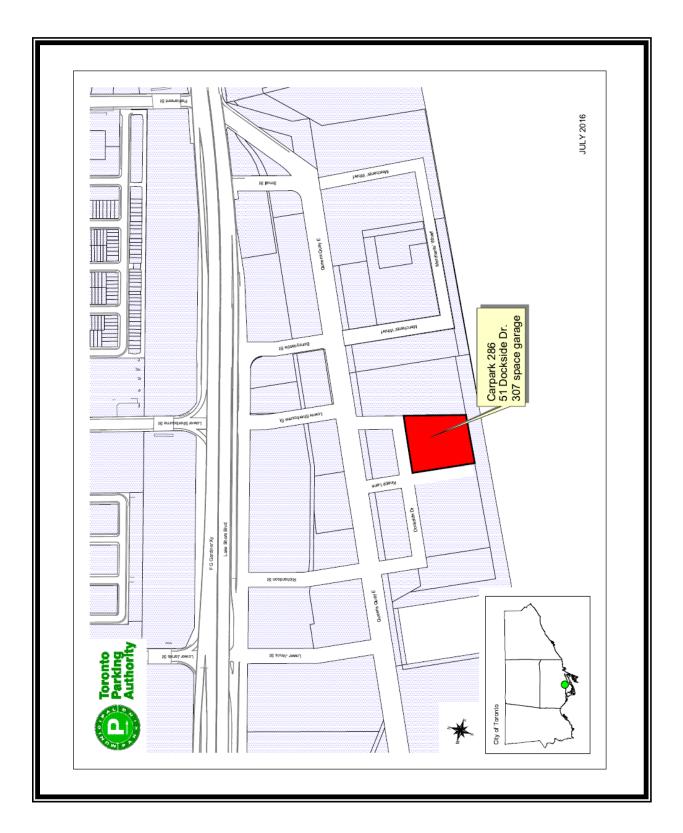
Site Location Map

Appendix 'A' Major Terms of Purchase and Sale Agreement

Appendix 'B' Property Photo and Aerial Image of Surrounding Neighbourhood

Appendix 'C' Existing Market Area Parking Supply Appendix 'D' Intermediate Term Market Area Parking Supply

SITE LOCATION MAP



APPENDIX 'A'

Major Terms of Draft Purchase and Sale Agreement

1. Vendor (as Sub-Tenant under the Parking Garage Sublease)	Collectively, Toronto Waterfront Revitalization Corporation and The George Brown College of Applied Arts and Technology
2. Purchaser (as Sub- Tenant under the Parking Garage Sublease)	Toronto Parking Authority (title to the subleasehold interest to be registered in the name of the City of Toronto)
3. Site Location	51 Dockside Drive, Toronto
4. Purchased Property/ Subleased Premises	All of the Vendor's subleasehold interest in the Parking Garage Sublease (as defined below in Box 11), of which approximately 95 years of the term remain. The Parking Garage Sublease is subject to a 99 - Year head lease agreement between the City of Toronto, as Head Landlord, and The George Brown College of Applied Arts and Technology, as Head Tenant (the " Head Lease "). The George Brown College of Applied Arts and Technology is the Sub-Landlord under the Parking Garage Sublease.
5. Parking Garage	Three (3) underground levels located at the Site Location containing 297 spaces behind a gated parking system and 10 spaces outside the gate on the first level together with the ramps, elevators, stairs, lobbies and corridors for pedestrian and vehicular access and egress thereto and other facilities associated therewith.
6. Purchase Price	\$15.75 Million Canadian Dollars plus closing costs and land transfer taxes.
7. Purchaser's Conditions	 The obligation of the Purchaser to complete the purchase transaction is subject to the Purchaser being satisfied with and/or obtaining the following: Due Diligence Review Satisfactory due diligence review, including the Site Location, Parking Garage, Parking Garage Sublease, title search; satisfactory review of various related agreements including but not limited to: Head Lease, Capital Contribution Agreement, Redpath Sugars Agreements, Section 37, Subdivision Agreement, Waterfront Toronto Development Agreement; access and utility/services easements; and license agreements. Third Party Cost Consultant's Review of Construction Costs The transaction is subject to the TPA being satisfied that its third party cost consultant has verified that the cost of construction of the Parking Garage was approximately \$100,000 per parking space. Approvals The transaction is subject to TPA Board and City Council approval.

	 Permanent Access Easement The vehicular and pedestrian access to the Parking Garage over the adjacent Corus site to be a permanent access easement with consent to be obtained under the Planning Act. Amendment of Parking Garage Sublease The transaction is conditional upon the Vendor and the Sub-Landlord entering into an amending agreement such that the Parking Garage Sublease and the amending agreement, collectively the "Parking Garage Sublease" contain the major terms and conditions set out below in Box 11. Registration of Parking Garage Sublease on Title The Parking Garage Sublease (or Notice of the Parking Garage Sublease) with Land Transfer Tax Affidavit to be registered on title.
8. Vendor's Conditions	The obligation of the Vendor to complete the sale transaction is subject to the Vendor obtaining the approval of its Board of Directors.
9. Due Diligence Date and Council Approval Date	To be determined.
10. Closing Date	Anticipated to be January, 2017.
11. Parking Garage Sublease	 The major terms and conditions related to the Parking Garage Sublease will be as follows: Term – 99 years from Commencement Date Commencement Date – October 1, 2012 Subleased Premises - The below grade parking garage that forms part of the building located on the property municipally known as 51 Dockside Drive, Toronto, Ontario, comprised of all of the below grade space adapted for use as motor vehicle parking, access driveways, ramps, pedestrian access ways and stairways, including all mechanical, electrical, alarm, lighting, plumbing and similar systems located therein and used for the purposes of operating the garage as a parking facility. Reference Plan – the Subleased Premises will be shown as Parts on a strata reference plan to be registered on title by the Vendor. Basic / Minimum Rent – Nil. No base rent is payable during the term of the Sublease as all base rent payable was paid to SubLandlord in connection with the Capital Contribution Agreement. Realty Taxes – Any realty taxes or payments in lieu attributable to the Parking Garage Sublease, if assessed, will be paid by Waterfront Toronto until May 15, 2023, being the earliest wind-up date for Waterfront Toronto, provided GBC remains the Head Tenant under the Head Lease and Sub-landlord under the Parking Garage Sublease. Accordingly, the TPA will assume any obligation to pay realty taxes or payment in lieu on the parking garage, if assessed, from and after the date that Waterfront Toronto is no longer responsible for payment until the expiry of the Term.

	Operating Cost Provisions – The Sub-Tenant is obligated to pay all Operating Costs relating to the Subleased Premises as well as its Proportionate Share of Operating Costs relating to the common areas.
	Use - The Subleased Premises may only be used for an underground parking facility and uses ancillary thereto.
	Operational Control of the Parking Garage - The Sub-Tenant is given the right to exercise control over and make all decisions relating to the operation, maintenance and repair of the Parking Garage without consent, including with respect to common areas.
	Security Plan – A security plan will provide for the physical security of the Parking Garage with costs allocated between the Sub-Landlord and the Sub-Tenant.
	Environmental – The Sub-Landlord will be responsible for and will carry out all risk management and certificate of property use obligations that affect the Subleased Premises. The Sub-Tenant will carry out an exit report at the end of the term and remove any hazardous material not related to the pre-existing environmental condition of the Subleased Premises.
	Head Lease – the Parking Garage Sublease is subject to the Head Lease. The major terms and conditions related to the Head Lease are as follows:
	Term – 99 years from October 1, 2012
	Basic / Minimum Rent – The base rent payable escalates at various times throughout the term of the lease
	Taxes – The lease is fully net to the Landlord
	Operating Cost Provisions – The Tenant is responsible for payment of all costs and expenses relating to the leased premises
	Use - The leased premises may only be used for: (i) an academic building with an underground parking facility and may include a district energy facility and any other use or purpose permitted to be undertaken by the Tenant pursuant to the Ontario Colleges of Applies Arts and Technology Act, 2002 "for the purpose of offering a comprehensive program of career-oriented, post-secondary education and training to assist individuals in finding and keeping employment, to meet the needs of employers and the changing work environment and to support the economic and social development of their local and diverse communities"; and (ii) uses ancillary thereto.
Prior Encumbrances:	Through a due diligence review, the Purchaser will review all instruments registered on title that affect the Subleased Premises.
	Among the various instruments on title are agreements with Redpath Sugars which bind property owners, tenants and occupiers and protect Redpath Sugars from any action that may be brought for damages or injunction, or both, at any point in time, with respect to noise, dust, vibration, odour, light emanating, air quality and any other emissions from works not exceeding the future full capacity of Redpath Sugars.

Parking License Agreements for Corus / Car Charging Agreement with Ministry of Transportation	The Purchaser will assume the License Agreements entered into by the Vendor in respect of parking privileges given to Corus in the Parking Garage and in respect of the Car Charging Agreement: A. TEDCO License Agreement This is a license agreement between the Vendor and City of Toronto Economic Development Corporation (TEDCO) which was assigned by TEDCO to Corus 25 Dockside Property Inc. (the "Licensee").
	The Licensee is permitted to license any and all of the 230 parking spaces that could be licensed by Corus Entertainment Inc. (" Corus ") under the
	Corus License Agreement, and which Corus has chosen not to license, by paying the market rent for the use of each space.
	The major terms and conditions related to the agreement are as follows:
	 Agreement Date – March 9, 2012
	Commencement - The license in respect of Surplus Spaces (defined below) commences upon the date on which the Licensee delivers written notice to the Licensor that the number of Corus parking spaces under the Corus License Agreement has been reduced and the Licensee wishes to license such Surplus Spaces. The license in respect of the TEDCO Spaces (defined below) commences upon the expiry or earlier termination of the Corus lease.
	Expiry – The agreement expires on the earlier of: (i) demolition of the 51 Dockside building; and (ii) the expiry of the ground lease in respect of the 51 Dockside property.
	Parking Rights - If during the term of the Corus lease (including extensions or renewals), the Corus lease is amended to reduce the number of unreserved parking spaces available to Corus thereunder, the Licensee shall have the right to use the difference between 230 parking spaces and the reduced number of parking spaces to which Corus is entitled (the "Surplus Spaces"). After the expiry or earlier termination of the Corus lease (including extensions or renewals), the Licensee shall have the right to use up to 230 unreserved parking spaces (the "TEDCO Spaces").
	Market Rent - The Licensee shall pay to the Licensor, monthly, in advance, on the first day of each month, the Market Rate for each licensed parking space, together with any HST
	Restrictions - The Surplus Spaces and the TEDCO Spaces shall only be used by the Licensee for parking for the Licensee's occupants of the Corus Quay Building, including such occupants' officers, directors and employees and each of their respective invitees.
	B. CORUS License Agreement
	This is a license agreement between the Vendor and Corus Entertainment Inc. and TEDCO.
	Corus is given a license to park up to 230 cars in the Parking Garage paying the market rent for the use of each space.

The major terms and conditions related to the agreement are as follows:
Agreement Date – March 9, 2012
Expiry – The agreement expires on the earlier of: (i) the expiration of the current term and all extensions of the Corus lease, being not later than December 31, 2049; and (ii) the earlier termination of the Corus lease.
Parking Rights - The Licensor grants to the Licensee and its sub- licensees and agents, a license to use unreserved parking spaces, comprised of up to 230 spaces in the Parking Garage, together with a license in common with other licensees to use the driveways, access ramps, stairways and related facilities of the Parking Garage
Market Rent - The Licensee shall pay to the Licensor, monthly, in advance, on the first day of each month, the Market Rate for each licensed parking space, together with any HST
C. Car Charging Agreement
This is an agreement between Her Majesty the Queen in Right of Ontario as represented by the Minister of Transportation (the "Ministry") and the Vendor.
Put in place for the purpose of enabling the Parking Garage to have electric vehicle ("EV") charging stations. During the Pan Am/Para Pan Am Games, the EV stations were only to be used by games officials. Subsequent to the games, the charging stations were made available for public use.
The major terms and conditions related to the agreement are as follows:
Effective Date – April 14, 2015
Expiry – May 15, 2018
Project - Public electric vehicle ("EV") charging station pilot located in the Parking Garage at the Property. The Ministry agrees to provide funding up to a maximum of \$69,724 for the purpose of acquiring and installing the charging stations.
Reporting – Ministry requires quarterly reporting regarding energy consumption usage in connection with the charging stations.

APPENDIX 'B'

Property Photo and Aerial Image of Surrounding Neighbourhood



51 Dockside Drive, Toronto





APPENDIX 'C' Existing Market Area Parking Supply

APPENDIX 'D'

Intermediate Term Market Area Parking Supply

