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February 28, 2022

VIA EMAIL: clerk@toronto.ca

Mayor and Members of Council
City of Toronto
Toronto City Hall
13th Floor West, 100 Queen Street West
Toronto, ON M5H 2N2

Attention: City Clerk

VIA EMAIL: jessica.braun@toronto.ca

City of Toronto
Legal Services
26th Floor, Metro Hall, Stn. 1260
55 John St.
Toronto, ON M5V 3C6

Attention: Jessica Braun, Solicitor

Re: 169 The Donway West – Offer for Community Space

We act on behalf of Donway (Don Mills) Realty Inc. (“Don Mills Realty”) with respect to the above-noted property.

On February 5, 2019, the OLT (formerly the LPAT) issued a decision granting approval in principle of our clients’ proposed Official Plan Amendment and Zoning By-law Amendment to allow a 25 storey mixed-use building to be constructed on its lands at 169 The Donway West (the “OLT Decision”). That site is the former Canada Post Office property located adjacent to the Shops of Don Mills, in the southwest quadrant of the Don Mills Road and Lawrence Avenue East intersection, within Central Don Mills. The Tribunal’s final Order has been withheld pending satisfaction of certain conditions identified in the OLT Decision.

The purpose of this letter is to present an offer to City Council whereby the OLT Decision would be modified to include the incorporation of a ± 19,000 ft² community use space in the ground floor of the building to be constructed at 169 The Donway West. The community use space would be constructed by Don Mills Realty at no cost to the City. It would be conveyed to the City following completion and thereafter operated by the City for public community uses. The details of the proposal, which include the addition of three residential floors to the building, are described in the offer below.

This proposal will provide approximately 19,000 ft² of publicly accessible community use facilities, including a signature fitness space with walking track and other multi-purpose rooms, in Central Don Mills for the benefit of local residents. As Don Mills Realty intends to proceed to the site plan approval and building permit stages immediately following issuance of the final OLT Order for 169 The Donway West, it is anticipated that construction could commence in 2023 and this community use space may be delivered to the City and available for public use by 2026.

The terms of our clients’ offer, which shall remain open for acceptance until the end of the City Council meeting commencing on March 9, 2022, are as follows:

1. Don Mills Realty and the City will jointly request a review and revision to the February 5, 2019 OLT Decision in the 169 The Donway West matter and ask the OLT to allow the following:
 - (a) A community use space (the "Community Space") of no more than 1,766 square metres (19,000 square feet) gross floor area shall be provided on the first storey of the proposed building at 169 The Donway West.
 - (b) An additional three storeys (no more than 10 metres in height) of residential gross floor area totalling no more than 845 square metres per storey at 169 The Donway West shall be permitted. The total height of the proposed building will be 87 metres and 28 storeys, not including mechanical penthouse, with the upper floors stepping back generally in accordance with the roof plan as shown on drawing A327 dated February 24, 2020.
 - (c) Up to 570 dwelling units shall be permitted. A minimum of 10% three bedroom units and 20% two bedroom units shall be provided. All commercial uses have been removed.
 - (d) Residential parking spaces for the building, as revised, are to be provided in accordance with the PA4 rates and appropriate TDM measures (which TDM measures are generally set out in the May 5th, 2020 Parking Study and TDM Plan prepared by LEA Consulting LTD). The final residential parking count will be determined upon the provision of revised plans to the City reflecting the revised unit count. The proposal will include 40 visitor parking spaces of which 7 will be reserved for Community Space parking from 7:00am to 9:30pm. One type G and one type C loading space shall be provided. The commercial parking and the type B loading space have been eliminated as a result of the elimination of the commercial uses.
 - (e) An increase in the section 37 payment from \$3 million (indexed) to \$4 million (indexed) based on increased density, which \$4 million (indexed) shall be dedicated to the construction of the Community Space.
2. Don Mills Realty agrees to construct and finish the Community Space at their own cost, inclusive of all fixtures, in accordance with the Plans and Specs attached as Schedule 1 to this offer. Don Mills Realty also agrees to provide furnishings and equipment for the Community Space, to a maximum cost of \$350,000.00. The Community Space will be finished with flexible meeting/fitness spaces, gymnasium/auditorium area and associated changing rooms and washrooms, administrative space, and an integrated walking track. The facility will be fully accessible for people with disabilities. The facility will also have visible frontage and signage. The Specs and Plans will be included as Schedules to the Section 37 Agreement. No additional financial contributions will be provided (i.e.: contributions towards Community Space operating costs) by Don Mills Realty other than those contributions referenced in the terms of this offer.
3. The parties shall work together to finalize the details of the design, construction and finishes of the Community Space that is acceptable to all, and in accordance with the Plans and Specs in Schedule 1 hereto, prior the issuance of any above grade permits for the building at 169 The Donway West. The process for review and sign off of the design,

construction and finishing of the facility will be included in the final terms and agreements between the parties. If the City requires changes to the Plans and Specs attached in Schedule 1 which result in increased costs to implement, the City shall be responsible for such additional costs.

4. Don Mills Realty shall receive Development Charge credits from the Parks, Forestry and Recreation component of the Development Charges payable for 169 The Donway West to offset the actual costs of constructing and finishing the Community Space. The total Parks, Forestry and Recreation component of overall Development Charges for 169 The Donway West is currently estimated at up to \$2.89 million based on November 2020 rates. That amount shall be indexed to the date of the pulling of the first above grade building permit (the "Indexed Amount"). If the Parks, Forestry and Recreation component of the Development Charges payable at the time is more than the Indexed Amount, Don Mills Realty shall receive credits equivalent to the actual costs of constructing and finishing the Community Space less the indexed \$4 million referenced in Section 1(d) above, to a maximum of the total available Parks, Forestry and Recreation credit. If the Parks, Forestry and Recreation component of the Development Charges payable at the time is less than the Indexed Amount, the difference between the Indexed Amount and the Parks, Forestry and Recreation component will be paid to Don Mills Realty by the City from other sources to offset the actual costs of constructing and finishing the Community Space.
5. Upon registration of the condominium for 169 The Donway West, a freehold parcel representing the Community Space will be transferred to the City for One (\$1.00) Dollar. The City or its designate shall thereafter be responsible for operation, maintenance and upkeep of the Community Space, and shall enter into a Reciprocal Agreement/Shared Facilities Agreement with Don Mills Realty and/or the future condominium corporation.
6. The Community Space shall be subject to restrictions to be set out in a zoning by-law and a Reciprocal Agreement/Shared Facilities Agreement that limit the permitted uses of the space to community activities, such as arts, crafts, social, charitable, and educational activities, as well as recreational purposes and recreational programming, seniors services, library and other community uses as agreed to by the Parties. All other non-residential uses will be prohibited in the By-law. No shelter, safe injection site or related uses shall be permitted in the Community Space.
7. The hours of operation for the Community Space shall be limited to between 7:00am to 9:30pm, provided that Don Mills Realty agrees to include provisions for a process whereby the future condominium corporation would consider requests from the operator to permit events such as movie nights to extend to 11:00pm.
8. In order for the review request respecting the OLT Decision to be favourably considered by the OLT, consent from the other two parties to that hearing, namely the Don Mills Residents Inc. and Richwood Developments Ltd., is required. This offer is being made on the understanding that the two other parties to this proceeding have consented to the herein offer.

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9. The City and Don Mills Realty shall work together to finalize the details of the section 37 agreement for 169 The Donway West. Such agreement shall be finalized and ready for execution no later than June 1, 2022, failing which Don Mills Realty shall have the option of asking the OLT to issue its Order for the original approval for 169 The Donway West instead of the revised proposal.
10. If the OLT has not issued a decision and Order permitting this revised proposal for 169 The Donway West by August 15, 2022 or the Tribunal has not approved the revised proposal, then Don Mills Realty shall have the option of asking the OLT to issue its Order for the original approval for 169 The Donway West instead of the revised proposal.

We appreciate City Council's consideration of this offer. Thank you very much.

Yours very truly,

AIRD & BERLIS LLP



Sidonia J. Tomasella

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Encls.

c. John Andreevski, Acting Director Community Planning, North York District
Clients

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