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April 19, 2023

BY EMAIL

Nathan Muscat
City of Toronto Legal Services
Metro Hall
55 John Street, 26th Floor
Toronto ON, M5V 3C6

Dear Mr. Muscat:

**Re: With Prejudice Offer to Settle
15 - 23 Toryork Drive, Toronto
OLT Lead Case No. OLT-22-003048
Related OLT Case Nos. OLT-22-003049 & OLT-22-003050
Municipal File Nos. 21 211444 WET 07 OZ & 21 211446 WET 07 SB**

As you are aware, we act on behalf of Titan Developments Inc. and 2217500 Ontario Limited (collectively, “**Titan**”) with respect to the lands municipally known as 15-23 Toryork Drive (the “**Site**”). The Site is approximately 15,688 square metres in size and is currently developed with 1- to 2-storey commercial buildings. It is located on the southwest side of Toryork Drive, west of Weston Road and north of Finch Avenue West, within the Emery Village Neighbourhood.

Background

The Site is subject to the Emery Village Secondary Plan that was adopted by the former North York City Council in November 2002. The associated zoning by-law (Emery Village Zoning By-law 422-2003, adopted in May 2003 to amend former North York Zoning By-law No. 7625 as amended) established zoning standards to implement the policies of the Emery Village Secondary Plan. A site-specific zoning by-law was adopted in 2003 for the Site (By-law 518-2003), following which, in December 2003, the Committee of Adjustment approved a minor variance (A239/03NY) to permit eight 18-storey residential buildings with a gross floor area of approximately 90,645 square metres for the Site.

On September 12, 2021, Titan, through its planning consultant Bousfields Inc., submitted Official Plan Amendment (“**OPA**”), Zoning By-law Amendment (“**ZBA**”) and Draft Plan of Subdivision (“**DPS**”) applications (collectively, the “**Applications**”) to the City of Toronto. The Applications were filed in order to subdivide the Site into three development blocks (Blocks 1, 2 and 3), a new public park (Block 4) (the “**Park**”) and a new public street, which new public street is proposed to connect to the future Emery Link 2A (“**Road 2A**”). The Applications included Privately-Owned, Publicly Accessible Space (“**POPS**”), a 38-storey tower on Block 1 (“**Tower A**”), a 36-storey tower and a 27-storey tower on Block 2 (“**Tower B**” and “**Tower C**” respectively), and a 29-storey tower on Block 3 (“**Tower D**”). The Applications were intended to develop the Site in a more sensitive

manner than the development permitted by the in-force site-specific zoning for the eight residential buildings.

The Applications were deemed complete on September 17, 2021 and a community consultation meeting was held by the City on March 1, 2022. On March 16, 2022, Titan appealed the Applications to the Ontario Land Tribunal (“**OLT**”) due to Council’s failure to make a decision with respect to the Applications within the timeframe prescribed by the *Planning Act* (the “**Appeals**”).

A Case Management Conference was held on July 28, 2022, and hearing dates were scheduled for July 24, 2023 to August 11, 2023. Throughout the appeal process, the Owner and their consultant team have continued to collaborate with City Staff in an attempt to resolve the outstanding issues and in an effort to reach a resolution of the subject appeals.

Settlement Offer

In light of the foregoing, we are writing to provide a **with prejudice** settlement offer to resolve the appeals of OPA and ZBA appeals (the “**Settlement Offer**”). The revised development proposal for the Site (the “**Revised Proposal**”) which forms the basis of this Settlement Offer is described below and shown on the enclosed Architectural Plans prepared by Giannone Petricone Associates Inc. Architects in association with Giovanni A. Tassone Architect Inc. and dated April 14, 2023 (the “**Architectural Plans**”). The Revised Proposal is the result of a cooperative process between City Staff and the Owner, with the Owner now filing the Settlement Offer in response to comprehensive comments from Staff including Planning, Transportation, Urban Design, Parks and Engineering & Construction Services.

The Settlement Offer includes the following modifications from the Applications:

- The location of the new public road has been refined, which has allowed for the expansion of the Park;
- The Park has increased in size from 1,630.41 square metres to 1,813 square metres, which size represents a park size of 14% of the Site, to be secured pursuant to section 42 of the *Planning Act*;
- The servicing for Block 1 has been moved from the center of the Block to the east side, and active uses are proposed opposite the proposed park in order to improve the pedestrian realm;
- At-grade residential units are now proposed in Blocks 1 and 3 to contribute to a residential character internal to the Site;
- Active uses are now proposed along the eastern frontage of Block 3, contributing to an animated pedestrian environment along the Park;

- The linear north POPS (“**POPS A**”), with an approximate area of 610 square metres, has been shifted to the east side of the north-south leg of the new public road;
- The building on Block 3 has been shortened to create space for a new, 325 square metre POPS space (“**POPS B**”), located south of Block 3 and adjacent to Road 2A;
- The Architectural Plans have been revised to include a lane intended to facilitate a connection from Road 2A to the Site and to any future development to the south;
- Access to the park has been improved, with both proposed POPS located to improve pedestrian connectivity from Toryork Drive and Road 2A toward the Park;
- On Block 2, active uses now wrap around the frontage from Toryork Drive and south to animate POPS A;
- The massing and orientation of Tower C has been revised to respond to the relocated POPS A and contribute to a continuous public realm along the new public road and the park; and
- The height of Tower C has been reduced from 27 to 26 storeys.

Titan is prepared to settle the OPA and ZBA appeals with the City, provided that City Council support the OLT approval of (1) the Revised Proposal, (2) the revised OPA and ZBA attached hereto (“**Revised OPA**” and “**Revised ZBA**” respectively) and in accordance with the following terms:

1. **Servicing Infrastructure:** In order to support the development of the Site, the servicing infrastructure in Road 2A must include the following:
 - a. A 250 mm diameter sanitary sewer (approximately 61 metres in length) from the intersection of the new public road to Toryork Drive as well as a 250 mm diameter sanitary sewer stub (approximately 10 metres in length) to convey drainage from the new public road to Road 2A;
 - b. A 200 mm diameter watermain from the southern property line of the Site to Toryork Drive, a 200 mm diameter watermain stub (approximately 6 metres in length) to connect the new public road to Road 2A, and two 150 mm diameter secondary fire service connections, one for Block 1 & one for Block 3, respectively; and
 - c. A storm sewer (currently 1200 mm diameter) from the new public road to the existing culvert crossing a Toryork Drive, which sewer size is subject to engineering review including the additional site drainage, as well as a 375 mm

diameter storm sewer stub (approximately 12 metres in length) to convey drainage from the new public road to Road 2A.

The Owner acknowledges that the above-mentioned items are being included as part of the construction of Road 2A in order to facilitate the Revised Proposal. The Owner agrees to fund the engineering design work associated with Road 2A as itemized in above. Furthermore, the Owner acknowledges that any reasonable increase in costs associated with the servicing infrastructure required for the Development through the construction of Road 2A arising therefrom shall be borne by the Owner.

The Owner acknowledges that the Block 1, Block 3 and Block 4 rely on the above-referenced infrastructure within Road 2A as is proposed in the enclosed Functional Servicing Report. Accordingly, a Holding Provision shall be applied to Block 1 and Block 3 in the ZBA. The Parties acknowledge and agree that an amending by-law to lift the Holding Provision may be enacted by City Council with respect to each building and/or Block when the following conditions have been fulfilled to the satisfaction of the City Solicitor, the Chief Engineer and Executive Director, Engineering and Construction Services, and Council:

- i. Where the final and accepted Functional Servicing Report confirms that the above-noted infrastructure improvements within Road 2A is relied upon for the Revised Proposal:
 - a. The City has tendered and executed the construction contract associated with Road 2A, which contract includes the provision of the servicing infrastructure outlined above; and
 - b. Appropriate arrangements as between the City and the Owner have been made to secure the costs associated with the addition of water and sanitary services (and storm upsizing) as part of the construction of Road 2A; or
- ii. Where the Owner submits a revised Functional Servicing Report which proposes servicing infrastructure for the Revised Proposal, including the Park, that does not rely on the infrastructure improvements being located in Road 2A, such revised FSR shall be the satisfaction of the Chief Engineer and the Executive Director, Engineering and Construction Services.

The Owner further acknowledges that should Road 2A, including the servicing infrastructure improvements as noted above, not proceed to construction by the City or the Owner elects to proceed with construction of Block 2 in advance of the construction of same, then Block 2 shall have its water service connections (domestic water service, and primary and secondary fire services) be connected directly to the Toryork Drive existing municipal watermain along the frontage of Block 2, in accordance with the City Design Criteria for Sewers and Watermains as well as the Ontario Building Code standards, all to the satisfaction of the Chief Engineer and the Executive Director, Engineering and Construction Services. Should the Owner elect to proceed in this manner, an interim road

design shall be required, to the satisfaction of the General Manager, Transportation Services, and such design shall be confirmed as part of the subdivision approval process for Block 2.

2. **POPS:** The Owner agrees to provide and design two POPS on the Site in the locations and configurations shown in the enclosed Architectural Plans:
 - a. POPS A shall be 610 square metres in size; and
 - b. POPS B shall be 325 square metres in size.

The details of the two POPS shall be secured as part of the Site Plan Approval process for the relevant Block of the development.

3. **Parkland Conveyance:** The Owner agrees to convey the Park (a 1,813 square metre parcel of land as shown in the enclosed Architectural Plans) to the City, free of any encumbrances, for a future public park at no cost to the City and in satisfaction of the City's parkland contribution requirements set out in Article III, Chapter 415 of the Municipal Code in connection with this development. The City also acknowledges that in the event Road 2A is not constructed at the time the Park is conveyed, the City shall accept the Park in base park condition, and above-base park condition if necessary, save and except for any improvements related to servicing. The details associated with the timing of the conveyance of the Park and provision of access and servicing for the Park will be dealt with through the Plan of Subdivision process.
4. **Above-Base Park Improvements:** In the event the OLT allows the appeals in whole or in part, City Council approve a development charge credit against the Parks and Recreation component of the Development Charges for the design and construction by the Owner of the Above-Base Park Improvements to the satisfaction of the General Manager, Parks, Forestry & Recreation, should the Owner choose to undertake Above-Base Park Improvements on the Park. The development charge credit shall be in an amount that is the lesser of the cost to the Owner of designing and constructing the Above-Base Park Improvements, as approved by the General Manager, Parks, Forestry & Recreation, and the Parks and Recreation component of development charges payable for the development in accordance with the City's Development Charges By-law, as may be amended from time to time.
5. **Pre-Condition to Final Order:** Titan and the City agree to request that the OLT withhold the Final Order on the OPA and ZBA appeals until such time as the OLT has been advised by the City Solicitor of the following:

- a. the Owner has entered into satisfactory arrangements with the City and R.V. Anderson Associates to fund the engineering design work associated with Road 2A as itemized in Paragraph 1 above;
 - b. the Owner has submitted a supplementary Functional Servicing Letter Report which addresses the revised water servicing intent for Block 2 to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services;
 - c. the ZBA has been revised in order to incorporate a Holding Provision for Block 1 and/or Block 3, if deemed necessary by the Parties based on the final Functional Servicing Report referred to Paragraph 5.b.;
 - d. the owner has provided an updated Pedestrian Level Wind Study based on wind tunnel analysis with recommendations, as may be necessary, implemented as part of the amending Zoning By-law(s) to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - e. the Land Use Compatibility reports have been received and have been deemed acceptable by the third party peer reviewer, with recommendations implemented as part of the amending Zoning By-law(s) all to the satisfaction of the Chief Planner and Executive Director, City Planning.
 - f. the Owner has updated the enclosed Transportation Impact Study Addendum to justify the proposed residential parking rate of 0.4 spaces/unit satisfactory to the General Manager, Transportation Services. The Transportation Impact Study Addendum shall provide for transportation demand management measures satisfactory to the General Manager, Transportation Services, which measures shall be secured as part of the Site Plan Approval process for the relevant Block;
 - g. the OPA and ZBA are in a content satisfactory to the Owner, the City Solicitor and the Chief Planner and Executive Director, City Planning, including any required revisions, changes or amendments thereto;
6. **Pedestrian Level Wind Study:** The Owner acknowledges that any mitigation measures referenced in the approved Pedestrian Level Wind Study in addition to any mitigation measures that may have been secured in the implementing Zoning By-law(s) shall be secured as part of the Site Plan Approval process for the relevant Block.
7. **Land Use Compatibility:** The Owner acknowledges that any mitigation measures referenced in the enclosed Land Use Compatibility reports as confirmed by the Peer Review process respecting said studies shall be secured as part of the Site Plan Approval process for the relevant Block. The City agrees to undertake best efforts to ensure that

the first round of peer review comments are provided to the Owner within 90 days of filing the herein settlement offer;

8. **Holding Provision:** Titan and the City agree that the final form of the ZBA may include Holding Provisions for Block 1 and Block 3 based on the recommendations and upgrades as outlined in the final Functional Servicing Report referred to Paragraph 5.b.
9. **Unit Mix and Unit Sizes:** Titan agrees that a minimum of 30% two-bedroom units and 10% three-bedroom units shall be provided within the Proposal, and that such units shall be within the following ranges: 61 to 87 square metres and 82 to 102 square metres, respectively.
10. Amenity space will be delivered at a rate of 4 square metres per unit per unit (2 square metres per unit of indoor space and 2 square metres of outdoor space).
11. **Construction Management Plan:** the Owner shall submit a comprehensive Construction Management Plan for each stage of the construction process, to be secured as part of the Site Plan Approval process for the relevant Block.
12. **Toronto Green Standard:** the Owner shall construct and maintain the development of the Site in accordance with Tier 1, Toronto Green Standard, and the Owner shall be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of Toronto Green Standards applicable at the time of each Site Plan Application for the Site.
13. **OLT Hearing:** If City Council accepts this Settlement Offer, the City and Titan agree to:
 - a. Proceed with a settlement hearing on a day during the hearing time reserved for the appeals of the OPA and ZBA, or earlier where possible; and
 - b. Request an adjournment of the appeal of the DPS and request that the OLT schedule a Case Management Conference at the earliest opportunity.

The City acknowledges that the adjournment of the appeal of the DPS is being consented to by Titan in order to provide additional time for the City to prepare the Draft Plan of Subdivision Conditions. The City shall work with Titan to prepare and finalize the Draft Plan of Subdivision Conditions that implement the terms of this Settlement Offer in advance of the Case Management Conference on the appeal of the Draft Plan of Subdivision. In the event that issues arise in the preparation of the Draft Plan of Subdivision Conditions that require adjudication by the OLT, then any such outstanding issues shall be adjudicated at a future hearing to be scheduled at the Case Management Conference.

14. The terms of this Settlement Offer shall remain open until the conclusion of the City Council meeting commencing on May 10, 2023.

In support of the Settlement Offer, we enclose a full resubmission including an update to all technical reports and studies which support the Revised Proposal as described above. The resubmission materials include the following:

- Planning and Urban Design Rational Addendum dated April 2023, prepared by Bousfields Inc.;
- Architectural Plans prepared by Giannone Petricone Associates Inc. Architects, dated April 14, 2023;
- Environmental Noise Study dated April 18, 2023, prepared by SLR Consulting (Canada) Ltd.;
- Compatibility & Mitigation Study dated September 2, 2021, prepared by SLR Consulting (Canada) Ltd.;
- Pedestrian Wind Assessment dated April 18, 2023, prepared by SLR Consulting (Canada) Ltd.;
- Energy Strategy Report dated January 18, 2023, prepared by Opresnik Engineering Consultants Inc.;
- Draft Zoning By-law Amendment amending former City of North York Zoning By-law No. 7625;
- Draft Zoning By-law Amendment amending City-wide Zoning By-law No. 569-2013;
- Civil Response Cover Letter dated February 28, 2023, prepared by fabian papa & partners;
- Functional Servicing Study & Stormwater Management Report dated February 28, 2023, prepared by fabian papa & partners;
- Civil Drawings dated February 28, 2023, prepared by fabian papa & partners;
- Tree Inventory & Preservation Plan dated April 18, 2023, prepared by Strybos Barron King Landscape Architecture;
- Landscape & Soil Volume Plan dated April 18, 2023, prepared by Strybos Barron King Landscape Architecture;
- Additional Transportation Analysis Letter dated April 13, 2023 (with Transportation Impact Study Addendum, dated March 2023, enclosed), prepared by Nexttrans Consulting Engineers;
- Toronto Green Standard Checklist; and
- Project Data Sheet.

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Yours truly,

AIRD & BERLIS LLP

A handwritten signature in cursive script, appearing to read "Sidonia J. Tomasella".

Sidonia J. Tomasella
SJT/NM/cb

Cc: Client

AIRD BERLIS