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File No. 703910

**WITHOUT PREJUDICE**

June 12, 2024

**By E-Mail Only to *Jason.Davidson@toronto.ca*, *Nathan.Muscat@toronto.ca* and *Michelle.LaFortune@toronto.ca***

Jason Davidson, Nathan Muscat, and Michelle LaFortune  
City of Toronto, Legal Services Division  
26th Floor, Metro Hall  
55 John Street  
Toronto, Ontario M5V 3C6

Dear Mr. Davidson, Mr. Muscat, and Ms. LaFortune:

**Re: Without Prejudice Settlement Offer  
Appeals of Official Plan Amendment, Zoning By-law Amendment and Draft  
Plan of Subdivision Applications  
2721 Danforth Avenue, Toronto  
OLT Case Nos.: OLT-23-000182, OLT-23-000183, and OLT-23-000184**

We are counsel to Tri-Metro Investments Inc. (the “**Owner**”), the applicant in respect of the lands municipally known as 2721 Danforth Avenue in the City of Toronto (the “**Property**”).

**Applications and Appeals**

In November 2021, the Owner submitted Official Plan Amendment and Zoning By-law Amendment applications (the “**OPA Application**” and the “**ZBA Application**”), together with a Draft Plan of Subdivision application (collectively, the “**Applications**”) to the City of Toronto (the “**City**”) to permit the development of a mixed-use development, including a 35-storey north tower and a 55-storey south tower on the Property.

In March 2023, the Owner appealed the Applications to the Ontario Land Tribunal (the “**Tribunal**” or “**OLT**”).

**Without Prejudice Offer to Settle the Appeals**

As you are aware, the Tribunal has scheduled a 15-day hearing for the appeals of the OPA Application, the ZBA Application, and the Draft Plan of Subdivision application to begin on September 23, 2024.

As a result of a series of mediation sessions that occurred earlier this year, our client's architect, RAW Design Inc., prepared revised architectural plans dated June 4, 2024, (the "**Revised Plans**"), a copy of which is attached. Where this settlement offer references planning instruments being substantially in accordance with the Revised Plans, it is in relation to the built form and massing depicted in the Revised Plans and not the layout of interior areas in the proposed development.

We are writing to present the City with a "without prejudice" offer to settle the appeals of the OPA Application and the ZBA Application to the Tribunal based on the following terms:

1. The settlement offer is based on the Revised Plans, which would be implemented through the resulting Zoning By-law Amendment and an Official Plan Amendment. Key aspects of the Revised Plans include:
  - a. a mixed-use development with one podium and two residential towers including:
    - i. a 35-storey (including podium) north tower with a height of 118.40 metres (including mechanical penthouse);
    - ii. a 59-storey (including podium) south tower with a height of 190.50 metres (including mechanical penthouse); and
    - iii. approximately 79,545 square metres of total gross floor area as calculated under City Zoning By-law No. 569-2013;
  - b. setbacks, stepbacks, and tower setbacks as shown on the Revised Plans;
  - c. a north tower floor plate of 850 square metres (gross construction area) above the 12<sup>th</sup> floor, and a south tower floor plate of 800 square metres (gross construction area) above the 6<sup>th</sup> floor;
  - d. a tower separation distance of 25 metres between the north and south towers (excluding any balconies);
  - e. a 4 storey podium along Danforth Avenue with stepbacks to 8 storeys, 10 storeys, and 12 storeys;
  - f. a 4 storey podium along Guest Avenue, and a 4 storey podium stepping back to 6 storeys along the future Guest Avenue extension;
  - g. a minimum 4 metre wide east-west mid-block pedestrian connection and a minimum 4 metre wide north-south mid-block pedestrian connection along the west property line that will connect to the proposed east-west midblock

pedestrian connection to the west of the Property, as shown on the Revised Plans; and

- h. the provision of live-work units along Guest Avenue and the future Guest Avenue extension, as shown on the Revised Plans.
2. The Owner and the City will work cooperatively to prepare a revised draft Zoning By-law Amendment to permit a development on the Property that is substantially in accordance with the built form and massing depicted in the Revised Plans (the “**Revised Draft ZBA**”).
3. The Owner and the City will work cooperatively to prepare a revised draft Official Plan Amendment, to permit a development on the Property that is substantially in accordance with the built form and massing depicted in the Revised Plans (the “**Revised Draft OPA**”).
4. The Revised Plans include a proposed conveyance of land for a portion of a public park (approximately 556 square metres or 10% of the area of the Property), in a condition satisfactory to the General Manager, Parks, Forestry & Recreation, free and clear of all physical encroachments and obstructions above and below grade and not encumbered by any easements or interests in land above and below grade, unless acceptable to the City, in accordance with all City policies in respect of the environmental condition of lands conveyed to the City, all in full satisfaction of any parkland requirement for the Property pursuant to either section 42 or 51.1 of the *Planning Act*. Conveyance of the public park will be secured either through section 42 of the *Planning Act* as a condition of development, or section 51.1 of the *Planning Act* as a condition of subdivision approval, and will be conveyed to the City no later than prior to the issuance of any above grade building permit for the proposed development.
5. The Revised Draft ZBA will provide for live-work units and amenity space facing the proposed public park at the south of the Property, as shown in the Revised Plans. Retail permissions for the space facing the public park will be incorporated into the Revised Draft ZBA, allowing for potential retail or commercial use in this space.
6. The Owner offers to provide an in-kind contribution pursuant to subsection 37(6) of the *Planning Act* in the form of twenty-six (26) units of affordable rental housing (the “**Affordable Rental Units**”), in accordance with the City’s income based affordable rent definition as provided in Official Plan Amendment 558, each with a minimum size of 500 square feet, for an affordability period of forty (40) years on the following terms:

- a. City Council attribute a value of the Affordable Rental Units to be 100 percent (%) of 4 percent (%) of the value of the Property;
  - b. the Affordable Rental Units shall be provided in contiguous groups of at least six (6) rental dwelling units;
  - c. the percentage of the Affordable Rental Units that have one, two, and three bedrooms will be generally in accordance with the percentage of market units that have one, two, and three bedrooms;
  - d. the general configuration, location, and layout of the Affordable Rental Units shall be to the satisfaction of the Chief Planner and Executive Director, City Planning;
  - e. the Affordable Rental Units shall include ensuite laundry and air conditioning in each unit at no additional cost to the tenants;
  - f. the Affordable Rental Units will be rented through the City's Centralized Affordable Housing Access System on the standard terms to outline how the units will be rented to eligible households in consultation with and to the satisfaction of the Chief Planner and Executive Director, City Planning and the Executive Director, Housing Secretariat; and
  - g. the residents of the Affordable Rental Units will have access to the amenities of the development including indoor and outdoor amenity space, access to rent vehicle parking spaces, as applicable, and access to bicycle and visitor vehicle parking, all on the same terms and conditions as any other resident of the development.
7. The Owner will adequately limit the placement and extent of wraparound and/or projecting balconies on the towers in an effort to reduce their visual impact at the site plan approval stage.
8. The Owner and the City will jointly request that the Tribunal schedule a settlement hearing for the appeals of the OPA Application and the ZBA Application, as soon as reasonably possible (the "**Settlement Hearing**") and release the scheduled hearing dates in September and October 2024.
9. The Owner will present and lead evidence in support of the Revised Plans to the Tribunal at the Settlement Hearing, and the Owner and the City will jointly request that the Tribunal allow the appeals of the OPA Application and the ZBA Application and approve, in principle, the Revised Draft OPA and the Revised Draft ZBA, but withhold its final Order until such time as the OLT has been advised by the City Solicitor that the following conditions have been satisfied:

- a. the final form and content of the draft Official Plan Amendment and Zoning By-law Amendment are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
  - b. the Owner has executed an agreement with the City pursuant to subsection 37(7.1) of the *Planning Act* to secure the provision of the above-noted Affordable Rental Units, or, alternatively, a holding provision shall be included in the final form of the Zoning By-law Amendment, not to be lifted until such time as the Owner has executed an agreement with the City pursuant to subsection 37(7.1) of the *Planning Act* to secure the provision of the above-noted Affordable Rental Units; and
  - c. the Owner has provided confirmation of water, sanitary and stormwater capacity (and conformity with the accepted Master Functional Servicing Report respecting Character Area C in Official Plan Amendment 478) to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, or, alternatively, a holding provision shall be included in the final form of the Zoning By-law Amendment, not to be lifted until such time as the Owner has satisfied this obligation; and
  - d. the Owner has submitted a pedestrian level wind tunnel study acceptable to, and to the satisfaction of, the Chief Planner and Executive Director, City Planning and that any built form requirements arising from such study be implemented in the final form of the Zoning By-law Amendment, if required.
10. Holding provisions shall be included in the final form of the Zoning By-law Amendment for final approval by the OLT pursuant to paragraph 9 above and shall not be lifted until such time as the Owner has satisfied the relevant City official that:
- a. the Owner has secured the design and the provision of financial securities for any upgrades or required improvements to the existing municipal infrastructure and/or new municipal infrastructure identified in the accepted Engineering Reports to support the development, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that improvements or upgrades and/or new infrastructure are required to support the development;
  - b. the Owner has submitted a revised Transportation Impact Study, and a Parking and Loading Study acceptable to, and to the satisfaction of, the General Manager, Transportation Services and that such matters arising from such studies be secured, if required; and

- c. the Owner has submitted a revised Landscape Plan which includes a notation that a volume of 30 cubic metres of soil will be provided for each tree with utilities shown to Quality Level A (QL-A), and provides any necessary financial securities, to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Parks, Forestry and Recreation and that such matters arising from such study be secured, if required.
- 11. The Owner and the City will jointly request that the appeal of the Draft Plan of Subdivision application be adjourned by the Tribunal, *sine die*.
- 12. The Owner and the City shall bear their own costs in respect of the appeals of the OPA Application and the ZBA Application to the Tribunal and neither the Owner nor the City shall seek an Order from the Tribunal for costs as against the other party.
- 13. This settlement offer is conditional on:
  - a. the Affordable Rental Units being included in the City's Open Door Affordable Housing Program upon receipt of an application for same and receiving the program's financial incentives; and
  - b. City Council accepting all the terms of this offer at its meeting that is scheduled to begin on June 26, 2024, and this settlement offer will remain open for consideration until the conclusion of that City Council meeting. The City Solicitor shall advise the Owner, on a confidential basis, as to whether or not the City accepts the settlement offer within 24 hours of the conclusion of the City Council meeting, or as soon as practicable.

Should this settlement offer be accepted by City Council, the Owner consents to the public release of this letter and the release of the attached Revised Plans (June 4, 2024).

We look forward to receiving confirmation of the City's endorsement of this settlement offer following the City Council meeting scheduled to begin on June 26, 2024. In the meantime, please do not hesitate to contact us if you have any questions regarding this

settlement proposal, or if you require anything further in advance of presenting this settlement offer to City Council.

Yours truly,  
**DAVIES HOWE LLP**



Mark R. Flowers  
Professional Corporation

encl.: Revised Plans (June 4, 2024)

copy: Client