

**DELEGATED APPROVAL FORM
CHIEF CORPORATE OFFICER
DIRECTOR OF REAL ESTATE SERVICES**

TRACKING NO.: 2017-131

Approved pursuant to the Delegated Authority contained in Executive Committee Item EX43.7 entitled "Delegation of Authority in Certain Real Estate Matters" adopted by City Council on May 11 and 12, 2010 (City Council confirmatory By-law No. 532-2010, enacted on May 12, 2010), as amended by GM24.9 entitled "Minor Amendments to Delegation of Authority in Certain Real Estate Matters" adopted by City Council on October 8, 9, 10 and 11, 2013 (City Council confirmatory By-Law No. 1234-2013 enacted October 11, 2013), as amended by DAF 2013-307 and DAF 2014-087.

Approved pursuant to the Delegated Authority contained in Executive Committee Item EX33.44 entitled "Union Station Revitalization Implementation and Head Lessee Selection" adopted by City Council on August 5 and 6, 2009. City Council confirmatory By-law No. 749-2009, enacted on August 6, 2009.

Prepared By:	Marie Casista / Greg Blyskosz	Division:	Toronto Parking Authority
Date Prepared:	May 8, 2017	Phone No.:	(416) 393-7295 / (416) 393-7267

Purpose
To obtain authority to sell the property located at 1607 Eglinton Avenue West excepting the at-grade portion which is currently used for public parking by the Toronto Parking Authority (the "Property") to Empire Communities (1603 Eglinton) Ltd. (the "Developer") which owns the lands located at 1603 Eglinton Avenue West (the "Adjoining Lands"). The Developer intends to develop its lands with the Property (collectively, the "Site") once it obtains all necessary approvals. The terms of the Agreement of Purchase and Sale will require the Developer to re-develop the at-grade portion of 1607 Eglinton Avenue West (which is to be retained by the City) for 34 parking spaces to Toronto Parking Authority's specifications. Additionally, the Developer will develop and transfer to the City for use as public parking, containing between 20 and 25 parking spaces, a below grade strata of the Site (beneath both 1607 and 1603 Eglinton Avenue West). The consideration on the sale is for a minimum purchase price of \$1.0 million with potential for an additional payment ("Purchase Price Bonus") if the Property, once zoned for development allows for more than 209,584 square feet of gross floor area.

Property
1607 Eglinton Avenue West, described as being Lots 17 and 18, on the south side of Eglinton Avenue West, and Lots 19 and 20, on the north side of Lanark Avenue, all on Plan 1687, City of Toronto (formerly Township of York) (Property Identifier No. 10451-0024(LT), save and except the at-grade strata being sufficient in area to accommodate a surface parking facility with no less than 34 spaces (the "Property").

- Actions**
- Authority be granted to complete the purchase and sale transaction ("APS") between the Toronto Parking Authority ("TPA") and Empire Communities (1603 Eglinton) Ltd. for: (a) the sale of the Property (1607 Eglinton Avenue West excepting an at-grade public parking facility for 34 spaces); (b) the re-development of the current at-grade parking facility by the Developer pursuant to TPA specifications at no cost to the TPA; and (c) the development and transfer to the City by the Developer of a subsurface fee simple strata of lands beneath the Site (being the Property (1607 Eglinton Avenue West) and the Adjoining Lands (1603 Eglinton Avenue West)) to be used as a public parking facility by TPA for between 20 and 25 parking spaces to be acquired by TPA at a fixed-price cost of \$22,500 per space (excluding HST); all of which as outlined in the body of this report and detailed under *Terms*.
 - The appropriate City Officials be authorized to execute all necessary documentation contemplated under the APS which require the City to be a party, solely in its capacity as land owner, including any easements and reciprocal cost sharing agreements, nominee agreements, restrictive covenant agreements, closing and other agreements necessary to implement the APS together with such other terms and conditions as the Chief Corporate Officer, in consultation with the Toronto Parking Authority, may deem appropriate and in a form satisfactory to the City Solicitor.
 - The City Solicitor be authorized to complete the transaction on behalf of the City, deliver any notices, pay any expenses, amend the closing and other dates, and amending and waiving terms and conditions, on such terms and conditions as she considers reasonable.
 - The appropriate City and Toronto Parking Authority officials be authorized and directed to take the necessary action to effect all authorized actions.

Financial Impact
This newly proposed development opportunity involves the sale of development rights at a minimum purchase price of \$1.0 million plus the potential of a density bonus for the purchased interest. The Developer will construct an at-grade surface parking facility in accordance with TPA's specifications for a municipal surface parking facility (the "Surface Public Parking Facility") consisting of a minimum of 34 spaces, at no cost to the TPA.

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Terms
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Property Details

Ward:	15 – Eglinton-Lawrence
Assessment Roll No.:	1914-03-1-300-02300
Approximate Size:	19.2 m x 56.86 m ± (36.08 ft x 186.5 ft ±)
Approximate Area:	1,091.7 m ² ± (11,751 ft ² ±)
Other Information:	The City will retain a strata sufficient in area to accommodate a minimum of 34 parking spaces at-grade as well as 25 parking spaces forming part of the underground condominium parking garage within the project.

A.	Director of Real Estate Services has approval authority for:	Chief Corporate Officer has approval authority for:
<p>1. Acquisitions:</p> <p>2. Expropriations:</p> <p>3. Issuance of RFPs/REOs:</p> <p>4. Permanent Highway Closures:</p> <p>5. Transfer of Operational Management to ABCDs:</p> <p>6. Limiting Distance Agreements:</p> <p>7. Disposals (including Leases of 21 years or more):</p> <p>8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan:</p> <p>9. Leases/Licences (City as Landlord/Licensor):</p> <p>10. Leases/Licences (City as Tenant/Licensee):</p> <p>11. Easements (City as Grantor):</p> <p>12. Easements (City as Grantee):</p> <p>13. Revisions to Council Decisions in Real Estate Matters:</p> <p>14. Miscellaneous:</p>	<p><input type="checkbox"/> Where total compensation does not exceed \$1 Million.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.</p> <p>Delegated to a more senior position.</p> <p>Delegated to a more senior position.</p> <p>Delegated to a more senior position.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$1 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$1 Million.</p> <p>Delegated to a more senior position.</p> <p><input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$1 Million;</p> <p><input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding three (3) months, including licences for environmental assessments and/or testing, etc.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.</p> <p><input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million.</p> <p><input type="checkbox"/> (b) When closing road, easements to pre-existing utilities for nominal consideration.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$1 Million.</p> <p><input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and may include increase not to exceed the amount of the original decision by the lesser of 10 per cent and \$500,000).</p> <p><input type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences;</p> <p><input type="checkbox"/> (b) Releases/Discharges;</p> <p><input type="checkbox"/> (c) Surrenders/Abandonments;</p> <p><input type="checkbox"/> (d) Enforcements/Terminations;</p> <p><input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates;</p> <p><input type="checkbox"/> (f) Objections/Waivers/Cautions;</p> <p><input type="checkbox"/> (g) Notices of Lease and Sublease;</p> <p><input type="checkbox"/> (h) Consent to regulatory applications by City, as owner;</p> <p><input type="checkbox"/> (i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title;</p> <p><input type="checkbox"/> (j) Documentation relating to Land Titles applications;</p> <p><input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds.</p>	<p><input type="checkbox"/> Where total compensation does not exceed \$3 Million.</p> <p><input checked="" type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$3 Million.</p> <p><input type="checkbox"/> Issuance of RFPs/REOs.</p> <p><input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.</p> <p><input type="checkbox"/> Transfer of Operational Management to ABCDs.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$3 Million.</p> <p><input checked="" type="checkbox"/> Where total compensation does not exceed \$3 Million.</p> <p><input type="checkbox"/> Exchange of land in Green Space System and Parks and Open Space Areas of Official Plan.</p> <p><input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$3 Million;</p> <p><input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding six (6) months, including licences for environmental assessments and/or testing, etc.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$3 Million.</p> <p><input checked="" type="checkbox"/> Where total compensation does not exceed \$3 Million.</p> <p>Delegated to a less senior position.</p> <p><input checked="" type="checkbox"/> Where total compensation does not exceed \$3 Million.</p> <p><input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and may include increase not to exceed the amount of the original decision by the lesser of 10 per cent and \$1 Million).</p> <p><input type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences;</p> <p><input type="checkbox"/> (b) Releases/Discharges;</p> <p><input type="checkbox"/> (c) Surrenders/Abandonments;</p> <p><input type="checkbox"/> (d) Enforcements/Terminations;</p> <p><input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates;</p> <p><input type="checkbox"/> (f) Objections/Waivers/Cautions;</p> <p><input type="checkbox"/> (g) Notices of Lease and Sublease;</p> <p><input type="checkbox"/> (h) Consent to regulatory applications by City, as owner;</p> <p><input type="checkbox"/> (i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title;</p> <p><input type="checkbox"/> (j) Documentation relating to Land Titles applications;</p> <p><input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds.</p>

B. Chief Corporate Officer and Director of Real Estate Services each has signing authority on behalf of the City for:

- 1. Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.
- 2. Expropriation Applications and Notices following Council approval of expropriation.
- 3. Documents required to implement the delegated approval exercised by him.

Chief Corporate Officer also has approval authority for:

- Leases/licences/permits at Union Station during the Revitalization Period, if the rent/fee is at market value.

Consultation with Councillor(s)										
Councillor:	Josh Colle					Councillor:				
Contact Name:						Contact Name:				
Contacted by:	X	Phone	X	E-Mail		Memo		Other		
Comments:						Comments:				
Consultation with ABCDs										
Division:	Financial Planning					Division:	Real Estate Services			
Contact Name:	Maria Djergovic / Stephen Conforti					Contact Name:	Joe Casali			
Comments:	Concurs with the financial implications					Comments:	Comments have been incorporated			
Legal Division Contact										
Contact Name:	Michele Desimone									
DAF Tracking No.: 2017-131			Date			Signature				
Recommended by: Manager			May 12, 2107			Lorne Persiko				
<input type="checkbox"/>	Recommended by: Director of Real Estate Services Joe Casali					May 12, 2017			Tim Park for Joe Casali	
<input type="checkbox"/>	Approved by:									
<input checked="" type="checkbox"/>	Approved by: Chief Corporate Officer Josie Scioli					May 12, 2017			Josie Scioli	

General Conditions ("GC")

- (a) The local Councillor (or local Councillors if the subject property is located on a ward boundary or if the transaction involves an exchange of properties in more than one ward), will be consulted prior to the exercise of delegated Approving Authority by staff for all Acquisitions, Disposals, Land Exchanges and Leases.
- (b) Where approving power has been delegated to staff, the Chief Corporate Officer, in consultation with the applicable Deputy City Manager or the City Manager, may determine that such matter is of such special interest that same should be returned to the relevant Committee and Council for consideration and determination.
- (c) Exercise of delegated authority is subject to all applicable Council policies, statutes or other applicable law.
- (d) Authority to approve financial commitments/expenditures is subject to all amounts being available in an approved budget [or funding is available from alternative sources].
- (e) Property interests are to be based on appraised value, and no interest shall be granted at less than market value unless otherwise specifically authorized.
- (f) Authority to approve transactions at less than market value is subject to statutory anti-bonusing provisions.
- (g) Total compensation means the aggregate of all types of payments, including land value, estimated clean-up costs, potential arbitration awards, loss claims, etc, but exclusive of any applicable taxes and registration costs.
- (h) Authority to acquire property is conditional upon provision being made to bring the property into compliance with applicable MOE or other requirements such that it will be fit for its intended municipal purpose.
- (i) Authority to initiate the permanent road closure process in **A.4** is conditional upon confirmation by the GM of Transportation Services that it is feasible to permanently close the highway.
- (j) Disposal authorities in **A.7** are subject to the property having been declared surplus, and the disposal policy complied with.
- (k) Land exchanges, except for those in **A.8**, may be authorized based on the delegated Approving Authority for Disposals in **A.7**.
- (l) Approving Authority with respect to land located in the Designated Waterfront Area is conditional upon the approval of the Director, Waterfront Secretariat.
- (m) Authority to approve an exchange of land in **A.8** is conditional upon confirmation by the Chief Planner and Executive Director, and the GM of Parks, Forestry & Recreation, that the land being exchanged is (i) nearby land of equivalent or larger area, and (ii) of comparable or superior green space utility.
- (n) Approving Authority in **A.9** Leases (City as Landlord) but not Licences (City as Licensor) is limited to periods (including options/renewals) of less than twenty-one (21) years.
- (o) Total compensation in leasing matters where the City is landlord (**A.9**) includes the value of tenant improvements if factored into tenant's rental payments.
- (p) Total compensation in leasing matters where the City is the tenant (**A.10**) includes the value of any tenant improvements to be paid by the City.
- (q) Where options/renewals are included in leases, if the renewal rent is to be determined at a date later than the original approval date, total compensation is to be calculated as though all options are exercised, estimating the renewal rent based on the highest rent payable in the first term of the lease.
- (r) Total compensation in leasing matters where the City is landlord (**A.9**) or tenant (**A.10**) is to be calculated from the date of approval pursuant to this delegation (ie. first allowing for the expiry of any prior approvals, whether by Council or a delegated authority).
- (s) Approving Authority in leasing matters includes authority to approve renewals/extensions within the parameters of the delegated Approving Authority.
- (t) Approving Authority includes authority for amendments within the parameters of the delegated Approving Authority, the cumulative total of which may not exceed the delegated financial limit.
- (u) Where proposed additional amounts in **A.13** exceed 10 per cent of the original decision, even if otherwise in compliance with all other conditions, then approving authority is transferred upwards to the next more senior level of approving authority having the relevant overall financial limit.
- (v) Approving Authority includes authority for all documents necessary to implement the authority, on terms and conditions satisfactory to the Approving Authority, in consultation with the relevant operating Division(s).
- (w) Staff positions referred to in this delegation include successors from time to time.
- (x) Documents are to be in a form satisfactory to the City Solicitor (including indemnity and insurance provisions).
- (y) Delegated signing authorities in **B** are conditional upon the documents having received the City Solicitor's prior "Approval as to Form".
- (z) This delegation does not affect sales, acquisitions and leases over which the Affordable Housing Committee has responsibility.
- (aa) Authority to use land acquired by the City for parking purposes by the Toronto Parking Authority is conditional upon Council enacting a by-law designating such use.
- (bb) All residential leasing documents shall adhere to the *Residential Tenancies Act* and any successor legislation.
- (cc) Despite GC(n), Approving Authority in residential leasing matters is not limited to periods of less than twenty-one (21) years.

Financial Impact continued from Page 1

In addition, the TPA will acquire a 25-space garage forming part of the underground condominium parking garage within the project (the "Condominium Public Parking Spaces") at a fixed-price cost of \$22,500 per space (excluding HST). TPA will also incur costs of \$45,000 for signage, parking control equipment and related security systems. The Developer will construct a passenger elevator to service the below grade parking facility. The cost to construct the elevator and related stairwells, estimated not to exceed \$250,000, will be shared equally on a 50/50 basis between the TPA and the Developer. TPA's portion of the elevator cost is estimated at \$125,000. All costs incurred by TPA will be paid out of the sale proceeds at the time of garage turnover. The Developer has approximately 30 months to complete the project.

Overall, with the sale of the development rights for Carpark 664, the TPA will add to its asset inventory a municipal parking garage of approximately 25 spaces, and also realize an estimated minimum net gain of approximately \$250,000, plus any density bonus payments.

When originally conceived, the Carpark 664 redevelopment project anticipated only 18 below grade spaces with no elevator access, and as such was included in the TPA's 10-Year Approved Capital Plan at cost of \$445,000 in 2018. Since there will be no payments associated with this purchase and sale agreement in 2017, there is no immediate requirement to adjust the current 10-Year Capital Budget and Plan. Expenditures and funding sources associated with the revised project totalling approximately \$750,000 will be reflected in the 2018-2027 Capital Budget and Plan Submission. Any future operating impacts associated with the new parking facility will be included in 2018 and future year operating budget submissions.

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

Background

The Property was acquired by the TPA through amalgamation and consists of a 40 space surface parking facility. The Adjoining Lands are located immediately to the east of the Property and positioned on the southwest corner of Eglinton Avenue West and Oakwood Avenue (1603 Eglinton Avenue West) (see attached *Site Location Map*),

The former owner of the Adjoining Lands, 1603 Eglinton Avenue West Inc. had initially approached the TPA to negotiate a quasi-joint venture development arrangement which would include the Property and the Adjoining Lands. Empire Communities (1603 Eglinton) Ltd. subsequently acquired the ownership interest in the Adjoining Lands from 1603 Eglinton Avenue West Inc. and the TPA has been negotiating with the new owner/Developer since the transfer. The Property excluding the stratified interest of the surface area of the Property from grade to approximately 15 or so feet above grade (the "Purchased Interest") will be sold to the Developer.

The Developer's intent is to construct a mixed use residential condominium building with main floor retail space on the Adjoining Lands, with the midrise residential podium portion extending over the Purchased Interest and a Condominium Parking Garage being constructed over the subsurface portion of the Purchased Interest (see attached *Appendix 'A' - Renderings and Elevation Detail*). As part of the arrangement, the Developer will construct, at its sole cost and expense, an At-Grade Parking Facility consisting of a minimum of 34 spaces similar to that of the existing surface lot less what will be required for supporting columns, services and an exit stairwell for the podium portion of the development which extends over the Property (collectively all of the above shall be referred to as the "Project").

All additional parking spaces constructed for the Project will be below grade parking and form part of the condominium which is to be registered as part of the Project (the "Condominium Parking Garage"). The City/TPA will acquire a stratified freehold interest in approximately twenty-five (25) parking spaces on the P1 parking level of the underground Condominium Parking Garage within the Project (the "Condominium Public Parking Spaces"). These spaces will include the ramp and / or drive aisles which will be subject to easements in favour of the City/TPA. A reciprocal cost sharing agreement will govern the common facilities shared by the City/TPA and the Developer, including the maintenance and repair costs related to the ramp and / or drive aisles. The Developer will also construct a passenger elevator and related stairwells to service the below grade parking facility with the costs shared equally on a 50/50 basis between the TPA and the Developer. Maintenance costs associated with the elevator will be captured based on a fair and equitable basis within the reciprocal cost sharing agreement. TPA will assume all financial obligations of the City with respect to the freehold interests to be retained or acquired by the City, as well as the liabilities of any requisite agreements to be entered into by the City in consequence of its ownership of lands.

Decision History

At its meeting of December 14, 2010, the TPA Board of Directors authorized staff to negotiate the terms and conditions of a purchase and sale agreement between the TPA and the former land owner (1603 Eglinton Avenue West Inc.) for the sale of development rights as well as retain legal counsel in order to assist in the negotiation and completion of the subject transaction (*TPA Board Minute No.: 10-180*).

On March 2, 2012, the former property owner, 1603 Eglinton Avenue West Inc., sold its ownership interest in the Adjoining Lands to Empire Communities (1603 Eglinton) Ltd.

On February 12, 2013, APS was executed between the TPA and the Developer.

At its meeting of February 27, 2013, the TPA Board of Directors approved the terms and conditions of the APS between the TPA and the Developer (*TPA Board Minute No.: 13-018*). The agreement contains conditions in favour of the TPA and the Developer which the parties are working to satisfy, one of which is obtaining City approval of the transaction. A summary of the terms and conditions of the APS are detailed herein under *Terms*.

On June 12, 2013, the Developer waived its conditions to the transaction.

In accordance with the City's Real Estate Disposal by-law, No. 814-2007, the Property was declared surplus on September 4, 2013 (*Delegated Approval Form Tracking No.: 2013-188*). All steps necessary to comply with the City's real estate disposal process as set out in Chapter 213 of the City of Toronto Municipal Code have been complied with.

Site Location and Particulars

Carpark 664 at 1607 Eglinton Avenue West is located west of Oakwood Avenue, fronts onto the south side of Eglinton Avenue West, and backs onto the north side Glenholme Avenue a short distance east of Dufferin Street. The area surrounding the Property is comprised of residential uses to the south and mainly retail / commercial uses along the Eglinton Avenue frontage to the north, east and west.

Since Carpark 664 is positioned mid-block along Eglinton Ave, it lacks prominence in terms of corner exposure and retains limited re-development potential on account of its size and development inefficiencies. The proposed development will help to increase the economic viability of the re-constructed surface parking facility through the introduction of new commercial uses to the immediate area.

Corporate Profile – Empire Communities (1603 Eglinton) Ltd. (the “Developer”)

The Developer, Empire Communities (1603 Eglinton) Ltd. is a wholly owned subsidiary of Empire Communities which is a privately held, Southern Ontario based, real estate development company. It is a fully integrated real estate company involved in design, development, project management and construction of low-rise and high-rise residential real estate projects. Since its beginning in 1986, Empire has built over 5,100 houses and 3,200 condominium units in the Greater Toronto Area and around Southern Ontario. It has generated over \$2.6 billion through end user sales and currently have over \$1.5 billion in development and construction work in progress. Principals of Empire Communities include Paul C. Golini Sr., Daniel G. Guizzetti, Andrew Guizzetti and Paul Golini Jr.

Terms

Summarized below are the terms and conditions of the APS between the TPA (as “Vendor”) and Empire Communities (1603 Eglinton) Ltd. (as “Purchaser”).

1. Purchaser/Developer – Empire Communities (1603 Eglinton) Ltd.
2. Purchase Terms:
 - i) Purchase Price - \$1,000,000.00;
 - ii) Purchase Price Bonus – prorata portion (14.87%) of \$32.92 per square foot of gross floor area in excess of the approved 209,584 square feet; and
 - iii) The Developer will construct at its expense an At-Grade Parking Facility containing a minimum of 34 parking spaces.
3. Payment of Purchase Price:
 - i) Initial Deposit - \$100,000.00 to be paid within five (5) business days of execution of the APS (**Received**)
 - ii) Second Deposit - \$150,000.00 to be paid within five (5) business days on or before the **earlier** of:
 1. Five (5) business days after the waiver of Due Diligence Conditions, the Vendor’s Conditions and the Municipal Approval Condition; or,
 2. One (1) year following the waiver or satisfaction of the Due Diligence Conditions and the Vendor’s Conditions (**Received**)
 - iii) Balance on closing.
4. Closing – Closing will occur on May 31, 2017.
5. Due Diligence Condition (Developer’s Condition) – The APS will be conditional for one hundred and twenty (120) days following its execution upon the Developer satisfying itself with the results of its due diligence in respect of the Property (**Waived June 12, 2013**)
6. Vendor’s Condition – The APS will be conditional until May 15, 2017 upon obtaining TPA Board approval, City Council approval and declaration of the Property as surplus.
7. Construction and Operation Matters – The Developer will commence construction of the Project by September 30, 2017 and will substantially complete construction of the At-Grade Parking Facility not later than thirty (30) months following construction commencement.
8. At-Grade Parking Facility – The At-Grade Parking Facility (inclusive of the concrete slab and membrane forming the underside of the At-Grade Parking Facility) will contain a minimum of 34 spaces and will be constructed according to the TPA plans and specifications and the Developer’s plans, which must be approved by the TPA in its sole discretion.
9. Shuttle Elevator – The Developer will provide for a shuttle elevator between the Public Parking Facility and the Condominium Public Parking Spaces. The Vendor agrees to pay \$125,000 to the Developer towards the cost of providing and installing such shuttle elevator. The shuttle elevator shall form part of the Public Parking Facility to be constructed within the Retained Lands and shall be owned by the Vendor.
10. Condominium Public Parking Spaces – Subject to the Developer obtaining zoning approval for such use, a portion of the Condominium Parking Garage, comprising between 20 and 25 parking spaces, shall be used for visitor and/or commercial parking purposes (the “Condominium Public Parking Spaces”). The Vendor shall purchase the Condominium Public Parking Spaces on the following terms and conditions:
 - i. The Vendor shall pay the Developer the sum of \$22,500 (excluding HST) for each parking space forming part of the Condominium Public Parking Spaces. Such sum shall be paid in full upon the Developer delivering possession of and title to the Condominium Public Parking Spaces to the Vendor which shall occur thirty (30) days following delivery of written notice that the Condominium Public Parking Spaces have been Substantially Completed and that the Developer has obtained occupancy clearances for the Condominium Public Parking Spaces;

- ii. The Condominium Public Parking Spaces (including the ramp and/or drive aisles) shall be constructed in accordance with the Current Plans;
 - iii. The Condominium Public Parking Spaces shall include the ramp and/or drive aisles leading to the Condominium Public Parking Spaces. The ramp and drive aisles will be subject to easements in favour of the Developer and its successors including the condominium to be created on the Project Lands, to permit ingress and egress over such lands. The Reciprocal Agreement shall address management and sharing of the maintenance and repair costs related to the ramp and/or drive aisles; and
 - iv. The Condominium Public Parking Spaces (including the ramps and drive aisles) within the Condominium Parking Garage shall not form part of the condominium to be registered in connection with the project and title thereto shall remain registered as freehold title.
11. Interim Conveyance – In the event the Ministry of the Environment and Climate Change continues to interpret the regulations under the *Environmental Protection Act* so as to prohibit the filing of a Record of Site Condition (“RSC”) for stratified properties, the Vendor shall, immediately prior to the Developer’s submission of an application for an RSC in respect of the Project Lands, arrange to deliver a Transfer from the City to the Developer of legal title to the stratified lands to be retained by the City (“Retained Lands”) subject to the following terms and conditions:
- i. The Developer and the City shall execute a trust agreement confirming that the Developer shall hold title to the Retained Lands as a bare trustee and nominee for and on behalf of the City;
 - ii. Contemporaneously with the registration of the Transfer of the Retained Lands to the Developer, the Developer shall register on title to the Retained lands a restriction under Section 118 of the *Land Titles Act* that will restrict any transfer or charge of the Retained Lands without the consent of the City;
 - iii. The Developer agrees to indemnify and hold the vendor and the City harmless in respect of: (i) any potential tax consequences which may arise as a result of the transfer and re-transfer of the Retained Lands; and (ii) any and all costs, expenses, losses, damages, claims, demands and liabilities arising from any negligent acts or omissions by the Developer in respect of the Retained Lands occurring during the Developer’s ownership of the Retained lands; and
 - iv. The Developer covenants and agrees to immediately following issuance of the RSC for the Project Lands, to register a Transfer back to the City of legal title to the Retained Lands whereupon the City will consent to the deletion of the Section 118 restriction from title to the Retained Lands.
12. Interim Parking Use – During the period from the Closing Date to the Commencement of Construction of the Project, (the “Interim Period”) TPA will continue to operate a public parking facility on the Retained Lands and be responsible for all operating costs including realty taxes, utilities, insurance premiums and any other costs or expenses arising from the Retained Lands during this Interim Period.
13. Construction Procedures Agreement – Upon Closing, TPA and the Developer will enter into an agreement that will set out the guidelines and procedures for construction of the At-Grade Parking Facility.
14. Reciprocal Operating Agreement – Upon completion of construction, the City (as owner of the Retained Lands) and the Developer will enter into a reciprocal operating agreement which will provide for easements, as appropriate, for pedestrian and motor vehicle access and egress, support, maintenance and repair, and sharing of costs and expenses in respect of shared facilities, if any. The Reciprocal Agreement will require the condominium corporation to maintain, in a separate reserve fund, sufficient funds to maintain and repair the membrane and concrete slab forming part of the At-Grade Parking Facility. The reciprocal operating agreement will provide that the At-Grade Parking Facility will be operational so long as the Project is in existence and will provide for insurance and insurance trust provisions, as appropriate and as required. The TPA shall be responsible for the obligations of the Agreement.
15. Construction Security – Thirty (30) days prior to commencement of construction of the Project, the Developer will provide the following security acceptable to the TPA and the City to satisfy their construction obligations:
- (i) An irrevocable letter of credit in an amount being not less than 110% of the anticipated construction cost to complete the Parking Facility, defined as the combined At-Grade Public Parking Facility and the Condominium Parking Garage, as estimated by a Quantity Surveyor. The letter of credit will be reduced on a monthly basis as the Project progresses so that it remains equal to 110% of the estimated construction cost to complete the Parking Facility, as determined by a quantity surveyor; and
 - (ii) A 50% performance bond which shall not be released until one year after Substantial Completion and a 50% labour and material bond.
16. At-Grade Parking Facility Turnover - The turnover of the At-Grade Parking Facility will be completed in accordance with the TPA standard protocol for the turnover of a public parking garage. Boundary readjustment and re-conveyances, if necessary, will take place upon turnover of the At-Grade Parking Facility.
17. Interruption of Public Parking – If the construction period extends beyond thirty (30) months the Developer will compensate TPA in the amount of \$5,000 (plus HST) per month for income lost for each month after the Substantial Completion Deadline until the At-Grade Parking Facility Turnover date.

18. Reimbursable Expenses - All commercially reasonable TPA related costs necessary to close the transaction, not to exceed \$70,000, including appraisal fees, survey, environmental and legal costs will be the responsibility of the Developer.
19. Commission – No real estate commissions are payable for this transaction.
20. Assignment by Developer - The Developer agrees that it shall not assign the APS without the prior written consent of the Vendor, which consent may not be unreasonably withheld. The Developer shall be permitted to assign this Agreement as security to any of its lenders provided that all lenders/assignees first enter into an assumption agreement with the Vendor pursuant to which agreement the lender agrees that if it realizes on its security by taking possession of the property that it assumes all of the Developer's obligations with respect to its construction of the Public Parking Facility or alternatively, if the lender sells the property or assigns its security, that it will cause any purchaser or successor in interest to be bound by the APS and assume the Developer's obligations.
21. Discretion of the City – The Developer agrees that the City of Toronto shall be under no obligation by virtue of any provision of the APS to grant approvals, or consents, including approvals or consents relating to the City of Toronto's Official Plan, zoning by-laws, site plan control, and minor variances and building permits necessary for any contemplated use by the Developer. The Developer further agrees that nothing contained in the APS shall in any manner limit or restrict the normal exercise of discretion by the various municipal departments and officials or fetter the discretion of City Council or by any delegated authority in any way, including the Developer's development application.

Site Location Map



Appendix 'A'

Renderings and Elevation Detail

