

**DELEGATED APPROVAL FORM**  
**DIRECTOR, REAL ESTATE SERVICES**  
**MANAGER, REAL ESTATE SERVICES**

**TRACKING NO.: 2019-018**

Approved pursuant to the Delegated Authority contained in Item EX27.12, as adopted by City Council on October 2, 3 & 4, 2017, as amended by Item GM27.12, adopted by City Council on May 22, 23 & 24, 2018 or, where applicable, in Item EX28.8, as adopted by City Council on November 7, 8 & 9, 2017.

Prepared By:	Greg Blyskosz (TPA) and Robin Chen (RES)	Division:	Toronto Parking Authority / Real Estate Services
Date Prepared:	August 16, 2019	Phone No.:	(416) 393-7267 / (416) 392-1852

<b>Purpose</b>	To obtain authority to amend the original Council Decision (Item GM12.18 at its meeting on June 7, 8 and 9, 2016) to approve an Amending Agreement of Purchase and Sale ("Amending APS") and to authorize the City to enter into a Conditional Agreement of Purchase and Sale in place of the Buy-Back Option Agreements originally approved under the Council Decision. The Closing of this transaction involves a City acquisition of a below-grade public parking garage to be operated by Toronto Parking Authority ("TPA") at 300-308 Queen Street West, Toronto. The public parking garage has been constructed and the transaction is ready for Closing.
<b>Property</b>	300 to 308 Queen Street West, Toronto, with the City acquiring a strata sufficient to accommodate a below-grade garage with up to 125 parking spaces.
<b>Actions</b>	<ol style="list-style-type: none"> <li>1. Authority be granted to approve an Amending Agreement of Purchase and Sale between Toronto Parking Authority and 2206181 Ontario Inc., Queen Street Retail Inc., 2230017 Ontario Inc., Sweeney Holdings Inc., and 2209153 Ontario Inc. to:             <ol style="list-style-type: none"> <li>a) correct a clerical error that resulted in 2230017 Ontario Inc. being incorrectly named as one of the Vendor entities instead of the correct entity 2209153 Ontario Inc.; and</li> <li>b) Close the transaction with the Conditional Agreement of Purchase and Sale in place and instead of the Buy-Back Option Agreements described in Recommendation 2.</li> </ol> </li> <li>2. The City be authorized to enter into a Conditional Agreement of Purchase and Sale, as Vendor, together with Toronto Parking Authority as a party, and 2206181 Ontario Inc., Queen Street Retail Inc., 2209153 Ontario Inc. and Sweeney Holding Inc., as Purchaser, in place and stead of the Buy-Back Option Agreements described in Appendix "A" Major Terms of Purchase and Sale Agreement approved by City Council by its adoption of GM12.18 at its meeting of June 7, 8 and 9, 2016 (the "Original Council Approval"); provided the Conditional Agreement of Purchase and Sale shall be substantially on the same business terms and conditions as the Buy-Back Option Agreements described in the Original Council Approval, together with such other terms and conditions as the Deputy City Manager, Corporate Services, in consultation with Toronto Parking Authority may deem appropriate, and in form satisfactory to the City Solicitor.</li> <li>3. The Deputy City Manager, Corporate Services, her/his successor/designate, in consultation with Toronto Parking Authority, be authorized to administer and manage the Conditional Agreement of Purchase and Sale and all other closing agreements contemplated by the Original Council Approval, including the provision of any consents, approvals, waivers and notices, provided that the Deputy City Manager may, at any time, refer consideration of such matters to City Council for its determination and direction.</li> <li>4. The Deputy City Manager, Corporate Services, her/his successor/designate, in consultation with Toronto Parking Authority, be authorized to execute and deliver on behalf of the City, solely in its capacity as land owner, written consent to any planning or development application contemplated under the Conditional Agreement of Purchase and Sale, provided the applicant agrees to assume all obligations including costs and liabilities under such applications, and subject to such other terms and conditions deemed satisfactory to the Deputy City Manager, Corporate Services, and in form satisfactory to the City Solicitor.</li> <li>5. Any consent provided by the City, solely in its capacity as land owner, to a planning or development application shall not fetter the exercise by the City of all of its rights as a municipality, or impose any obligations on the City, in its role as a municipality, and the City shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities, including planning rights and responsibilities.</li> </ol>
<b>Financial Impact</b>	<p>There are no financial implications resulting from this approval.</p> <p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
<b>Comments</b>	<p>The amendments to the Original Council Decision authorized under Item GM12.18 at City of Toronto Council meeting on June 7, 8, and 9, 2016 will require TPA to enter into an Amending APS, which is subject to City approval by way of delegated approval authority.</p> <p><i>Continued on Page 4</i></p>

<b>Property Details</b>	<b>Ward:</b>	Ward 10, Spadina – Fort York
	<b>Assessment Roll No.:</b>	19-04-06-5-160-00510-0000-0-6
	<b>Approximate Size:</b>	35.6 m x 53.7 m ± (116.8 ft x 176.3 ft ±)
	<b>Approximate Area:</b>	1,925 m <sup>2</sup> ± (20,720 ft <sup>2</sup> ±)
	<b>Other Information:</b>	

A.	Manager, Real Estate Services has approval authority for:	Director, Real Estate Services has approval authority for:
1. Acquisitions:	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
2. Expropriations:	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$50,000.	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.
3. Issuance of RFPs/REOs:	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> Issuance of RFPs/REOs.
4. Permanent Highway Closures:	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.
5. Transfer of Operational Management to Divisions and Agencies:	<b>Delegated to a more senior position.</b>	<b>Delegated to a more senior position.</b>
6. Limiting Distance Agreements:	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
7. Disposals (including Leases of 21 years or more):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan:	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> Exchange of land in Green Space System and Parks and Open Space Areas of Official Plan.
9. Leases/Licences (City as Landlord/Licensor):	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$50,000.	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$1 Million.
	<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.	<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.
	<b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b>	<b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b>
10. Leases/Licences (City as Tenant/Licensee):	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$50,000.	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.
11. Easements (City as Grantor):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million.
	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> (b) When closing roads, easements to pre-existing utilities for nominal consideration.
12. Easements (City as Grantee):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
13. Revisions to Council Decisions in Real Estate Matters:	<b>Delegated to a more senior position.</b>	<input checked="" type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).
14. Miscellaneous:	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences <input type="checkbox"/> (b) Releases/Discharges <input type="checkbox"/> (c) Surrenders/Abandonments <input type="checkbox"/> (d) Enforcements/Terminations <input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates <input type="checkbox"/> (f) Objections/Waivers/Caution <input type="checkbox"/> (g) Notices of Lease and Sublease <input type="checkbox"/> (h) Consent to regulatory applications by City, as owner <input type="checkbox"/> (i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title <input type="checkbox"/> (j) Documentation relating to Land Titles applications <input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds

**B. Director, Real Estate Services and Manager, Real Estate Services each has signing authority on behalf of the City for:**

- Documents required to implement matters for which he or she also has delegated approval authority.
- Expropriation Applications and Notices following Council approval of expropriation (Manager, Transaction Services is only Manager with such signing authority).

**Director, Real Estate Services also has signing authority on behalf of the City for:**

- Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.
- Community Space Tenancy Leases approved by delegated authority by Deputy City Manager, Corporate Services and any related documents.

Consultation with Councillor(s)										
Councillor:	Joe Cressy				Councillor:					
Contact Name:	Lia Brewer 416-392-4044				Contact Name:					
Contacted by:	Phone	X	E-Mail	Memo	Other	Contacted by:	Phone	E-mail	Memo	Other
Comments:	No objection (July 24, 2019)				Comments:					
Consultation with Divisions and/or Agencies										
Division:	Toronto Parking Authority				Division:	Financial Planning				
Contact Name:	Greg Blyskosz 416-393-7267				Contact Name:	Maria Djergovic 416-397-4558				
Comments:	Reviewed and proceed (July 31, 2019)				Comments:	Proceed (July 23, 2019)				
Legal Division Contact										
Contact Name:	Kathleen Kennedy (416-392-4497) Comments incorporated (July 22, 2019)									

DAF Tracking No.: 2019-018	Date	Signature
Recommended by: Project Manager CCOO, Real Estate Services Robin Chen		
<input checked="" type="checkbox"/> Recommended by: <b>Manager, Real Estate Services Melanie Hale-Carter</b>	<b>August 20, 2019</b>	Signed by Melanie Hale-Carter
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: <b>Director, Real Estate Services Nick Simos</b>	<b>August 20, 2019</b>	Signed by Nick Simos

#### 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. In the event of a vacancy in the Ward in which the subject property is located, the Mayor's office shall be consulted in the alternative.
- (b) Where approving power has been delegated to staff, the Deputy City Manager, Corporate Services, in consultation with any other 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 being available from third party sources, except for "Strategic Property Acquisitions" as set out in EX44.22 adopted by Council August 25, 26, 27 and 28, 2014, which identifies alternative funding mechanisms subject to additional approval requirements.
- (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, except for property acquisitions of 50M<sup>2</sup> or less for transit shelter purposes.
- (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 as defined in the *Toronto Waterfront Revitalization Corporation Act, 2002* 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 of City Planning, 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, as leases of 21 years or more may be authorized based on the delegated Approving Authority for disposals in **A.7**.
- (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, including ancillary agreements, 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) 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.
- (aa) All residential leasing documents shall adhere to the *Residential Tenancies Act, 2006* and any successor legislation.
- (bb) Despite GC(n), Approving Authority in residential leasing matters is not limited to periods of less than twenty-one (21) years and total compensation in residential leasing matters where the City is landlord is to be calculated based on an assumed term of ten years unless the lease term expressly identified therein is longer.
- (cc) Where Approving Authority has been delegated to the Manager level, such authority shall be conditional upon the Manager first having secured the written concurrence of a second Manager within the Real Estate Services Division.
- (dd) Where the City is transacting with a public agency, and such agency requires that an unqualified environmental indemnity be granted by the City, the authority to acquire property includes authority to grant such an indemnity, provided that the Phase I and Phase II environmental site assessments undertaken on behalf of the City have identified no significant environmental impacts or human health threats, with no, or minor action required ("Low Risk").

**Comments (Continued from Page 1)**

The Amending APS is required to:

- i. correct a clerical error; and
- ii. Close the transaction with the Conditional Agreement of Purchase and Sale ("Conditional APS") in place and instead of the Buy-Back Option Agreements.

Firstly, the original agreement of purchase and sale dated March 16, 2016 between TPA (the Purchaser), and 2206181 Ontario Inc., Queen Street Retail Inc., 2230017 Ontario Inc., and Sweeney Holdings Inc. (collectively the Vendor) ("Original APS") contained a clerical error that resulted in 2230017 Ontario Inc. being incorrectly named as one of the Vendor entities instead of the correct entity 2209153 Ontario Inc. According to public records of the Ministry of Government Services obtained on December 22, 2016, Owen Lawson is the sole Director and President of 2230017 Ontario Inc. According to public records of the Ministry of Government Services obtained on December 19, 2018, Owen Lawson is the sole Director and President of 2209153 Ontario Inc. The Vendor entities under the Original APS and 2209153 Ontario Inc. have provided to the City and TPA a signed Acknowledgment with attached sworn Affidavit of Stafford Lawson which explains the clerical error.

Secondly, the Original APS contemplated the execution on Closing of two (2) Buy-Back Options to purchase in favour of the Developer in respect of the Parking Garage Lands but excluding the ROW Parcel (as described in the Original Council Decision) at certain times many years hence (The first Buy-Back Option being years 25 to 50 following Closing; and the second Buy-Back Option being years 50 to 100 following Closing) exercisable upon certain triggering facts. Legal concerns as to the validity of the proposed Buy-Back Options by reason of the *Perpetuities Act* has resulted in the parties re-negotiating the Closing documents to complete the transaction substantially on the same business terms provided in the Original APS. The parties have settled the Conditional APS, subject to City approval. In support of the Conditional APS, TPA's outside solicitor (Borden Ladner Gervais LLP or "BLG") prepared an equivalency chart and confidential memo being an analysis of the substantive commercial equivalency of the Conditional APS to the originally-contemplated Buy-Back Option Agreements. TPA and City staff, in consultation with City Legal Services, have reviewed the BLG memo and equivalency chart and the settled Conditional APS and recommend that the transaction be completed on the basis of the City execution and delivery of the Conditional APS in place of the Buy-Back Option Agreements.

The project is completed and the turnover and conveyance of the public parking garage is anticipated to occur in early August 2019. The carpark (Municipal Carpark 262), having a municipal address of 10 Soho Street, will be delivered to design standards and specifications that meet TPA's requirements and contain a total of 116 parking spaces (to be confirmed).

**Terms**

Table 1.0 below summarizes the terms and conditions of the proposed Amending APS between TPA, the Vendor and 2209153 Ontario Inc., which Amending APS remains to be executed between the parties, subject to City approval by way of delegated approval authority.

*Table 1.0 - Terms and Conditions of the Amending APS*

**Amendment to Purchase Agreement**

From and after the Amendment Date, the Purchase Agreement is amended as follows:

- a) any reference in the Purchase Agreement to 2230017 Ontario Inc. is deleted and "2209153 Ontario Inc." is inserted in its place. 2230017 Ontario Inc. is hereby released and discharged from all obligations and liabilities under the Purchase Agreement.
- b) The following is inserted as Section 1.1(p1):  
"(p1) **"Conditional Agreement of Purchase and Sale"** means a conditional agreement of purchase and sale to be entered into between the Purchaser, the City (as vendor) and the Vendor (as purchaser) on Closing, whereby the Vendor will agree to purchase and the City will agree to sell of the City's right, title and interest in to the Purchased Property, excluding the ROW Parcel, upon the terms and conditions agreed to by the parties and set out in the Conditional Agreement of Purchase and Sale;"
- c) Sections 1.1(ss), (uuu), (vvv), (www), (jjjj) and (llll) of the Purchase Agreement are deleted in their entirety and "Intentionally Deleted" is inserted in their place;
- d) Section 5.3(a)(ii) of the Purchase Agreement is deleted in its entirety and "Intentionally Deleted" is inserted in its place;
- e) Section 5.3(b) of the Purchase Agreement is amended by deleting the words "the Redevelopment Buy-Back Option" and inserting "the Conditional Agreement of Purchase and Sale" in their place;
- f) Section 6.1(d) of the Purchase Agreement is amended by deleting the words "and constitute legal, valid and binding obligations of it, enforceable against it in accordance with its terms";
- g) Section 6.1(e) of the Purchase Agreement is amended by deleting the words "the Redevelopment Buy-Back Option" and inserting "the Conditional Agreement of Purchase and Sale" in their place;
- h) Section 6.2(b) of the Purchase Agreement is amended by deleting the words "and constitute legal, valid and binding obligations of it, enforceable against it in accordance with its terms";
- i) Article 9 of the Purchase Agreement is deleted in its entirety and "Intentionally Deleted" is inserted in its place;
- j) Section 10.1(h) is amended by deleting the words "the Redevelopment Buy-Back Option" and inserting "the Conditional Agreement of Purchase and Sale executed by the Purchaser, the Vendor and the City" in their place;
- k) Section 10.2(d) is amended by deleting the words "the Redevelopment Buy-Back Option, executed by the Purchaser and the City" and inserting "the Conditional Agreement of Purchase and Sale, executed by the Purchaser, the Vendor and the City" in their place;
- l) the second sentence of Section 10.5(b) is deleted in its entirety; and
- m) the last sentence of Section 10.5(c) is deleted in its entirety.

# APPENDIX 'A' SITE LOCATION MAP

