

Approved pursuant to the Delegated Authority contained in Article 2 of City of Toronto Municipal Code Chapter 213, Real Property

Prepared By:	Ishan Dasgupta	Division:	Corporate Real Estate Management
Date Prepared:	July 21, 2021	Phone No.:	(416) 392-7165

Purpose	<p>To obtain authority for:</p> <p>a) the sale of the City-owned property located at 838 Broadview Avenue (also known as Municipal Carpark 282), save and except the air space from and over 30 meters above grade, to the abutting owners of 840-844 Broadview Avenue (the "Purchaser" or "Developer") for the purposes of a mixed-use development; and</p> <p>b) the acquisition of an underground parking facility of between 31-35 spaces when fully constructed by the Developer to TPA standards and specifications (the "Public Parking Garage").</p>
Property	Part of 838 Broadview Avenue being Part of PIN 10395-0226 (LT) Part of Lot 45, Plan 257 Toronto, as shown on Sketch No. PS 2020-026 on Appendix "B", having an upper horizontal ceiling of 30 metres above grade (the "City Property").
Actions	<ol style="list-style-type: none"> 1. Authority be granted for the City, as Vendor, to enter into an Agreement of Purchase and Sale ("APS") with the Purchaser, for the sale of the City Property and the acquisition of the Public Parking Garage, substantially on the terms and conditions set out in Appendix "A" together with such other terms and conditions as may be deemed appropriate by the Deputy City Manager, Corporate Services, in consultation with the Toronto Parking Authority, and in form satisfactory to the City Solicitor. 2. Authority be granted for the City to enter into all ancillary agreements contemplated under the APS including any easements, licenses, leases, cost sharing agreements, restrictions, restrictive covenant agreements, closing documents and other agreements (the "Ancillary Agreements") on such terms and conditions as the Deputy City Manager, Corporate Services, in consultation with the Toronto Parking Authority, may deem appropriate and in a form satisfactory to the City Solicitor. 3. The Deputy City Manager, Corporate Services, her/his successor/designate, in consultation with Toronto Parking Authority, be authorized to administer and manage the APS and Ancillary Agreements, including the provision of any consents, approvals, waivers and notices, provided that the Deputy City Manager, Corporate Services may, at any time, refer consideration of such matters to City Council for its determination and direction. 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 APS, 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. 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. 6. The City Solicitor be authorized to complete the APS and Ancillary Agreements 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. 7. The appropriate City officials be authorized and directed to take the necessary action to effect all authorized actions.
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Property Details	Ward:	14 – Toronto-Danforth
	Assessment Roll No.:	1904-07-5-490-07700
	Approximate Size:	20.08 m x 40.44 m ± (65.88 ft x 132.68 ft ±)
	Approximate Area:	812.04 m ² ± (8,740.73 ft ² ±)
	Other Information:	Municipal Carpark 282

A.	City Manager has approval authority for:
1. Acquisitions:	<input checked="" type="checkbox"/> Where total compensation does not exceed \$10 Million.
2A. Expropriations Where City is Expropriating Authority:	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$10 Million.
2B. Expropriations For Transit-Related Purposes Where City is Property Owner or Has Interest in Property Being Expropriated:	<input type="checkbox"/> (a) Acceptance of statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$10 Million.
3. Issuance of RFPs/REOIs:	Request/waive hearings of necessity delegated to less senior positions.
4. Permanent Highway Closures:	Delegated to less senior positions.
5. Transfer of Operational Management to Divisions, Agencies and Corporations:	Delegated to less senior positions.
6. Limiting Distance Agreements:	<input type="checkbox"/> Where total compensation does not exceed \$10 Million.
7. Disposals (including Leases of 21 years or more):	<input checked="" type="checkbox"/> Where total compensation does not exceed \$10 Million.
8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan:	Delegated to less senior positions.
9. Leases/Licences (City as Landlord/Licensor):	<input type="checkbox"/> Where total compensation (including options/ renewals) does not exceed \$10 Million. Leases/licences for periods up to 12 months at less than market value delegated to less senior positions. Leases pursuant to the Community Space Tenancy Policy delegated to a less senior position.
10. Leases/Licences (City as Tenant/Licensee):	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$10 Million.
11. Easements (City as Grantor):	<input type="checkbox"/> Where total compensation does not exceed \$10 Million. Nominal sum easements to pre-existing utilities when closing roads delegated to less senior positions.
12. Easements (City as Grantee):	<input type="checkbox"/> Where total compensation does not exceed \$10 Million.
13. Revisions to Council Decisions in Real Estate Matters:	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (U)).
14. Miscellaneous:	Delegated to less senior positions.

B. City Manager has signing authority on behalf of the City for:
<ul style="list-style-type: none"> Documents required to implement matters for which this position also has delegated approval authority.

Pre-Condition to Approval	
<input checked="" type="checkbox"/>	Complies with General Conditions in Appendix B of City of Toronto Municipal Code Chapter 213, Real Property
Consultation with Councillor(s)	
Councillor:	Paula Fletcher
Contact Name:	Susan Serran
Contacted by:	Phone <input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Memo <input type="checkbox"/> Other <input type="checkbox"/>
Comments:	No objections (07/15/2021)
Consultation with Divisions and/or Agencies	
Division:	Toronto Parking Authority
Contact Name:	Jeff Dea
Comments:	No objections (07/16/2021)
Division:	Financial Planning
Contact Name:	Patricia Libardo
Comments:	Comments incorporated (07/21/2021)
Legal Services Division Contact	
Contact Name:	Kathleen Kennedy (comments incorporated)

DAF Tracking No.: 2021-205	Date	Signature
Recommended by: Manager, Real Estate Services, Daran Somas	July 21, 2021	Signed by Daran Somas
Recommended by: Director, Real Estate Services, Alison Folosea	July 21, 2021	Signed by Alison Folosea
<input checked="" type="checkbox"/> Recommended by: Executive Director, Corporate Real Estate Management Patrick Matozzo	July 21, 2021	Signed by Patrick Matozzo
<input checked="" type="checkbox"/> Recommended by: Deputy City Manager, Corporate Services Josie Scioli	July 21, 2021	Signed by Josie Scioli
<input checked="" type="checkbox"/> Approved by: City Manager Chris Murray	July 22, 2021	Signed by Chris Murray

Financial Impact

Proceeds from the sale of the City-owned property located at 838 Broadview Avenue is estimated to be \$4,090,000 based on a fair market value appraisal of the Property prepared by Bosley Farr Associates Ltd. and commissioned in accordance with terms of reference from the Appraisal unit of CREM. Proceeds from the sale will be used to fund the following transactions:

The Public Parking Garage will be constructed by the Developer to TPA standards and specifications and will be acquired by the City and operated by the TPA at an agreed price of \$37,500 per space (plus HST) for a maximum of 35 parking spaces, and a minimum of 31 spaces financed through the sale proceeds of the City Property. The Public Parking Garage acquisition will range from \$1,162,500 for 31 spaces to \$1,312,500 for 35 spaces.

In addition, a floor of Affordable Housing Units will be constructed by the Developer to the same standards as the rest of the market priced housing in the balance of the building. It is contemplated that 16 units will be constructed as a component of a separate transaction (the Affordable Housing Agreement) and will be acquired by the City and operated by a non-profit housing operator. \$2,072,500 of the acquisition of the Affordable Housing units will be funded by the sales proceeds of the Property with the balance funded by the Housing Secretariat pursuant to PH11.9 "*Affordable Rental Housing Opportunity at 838 Broadview Avenue*" adopted by Council at its Meeting on Dec 17 and 18, 2019. Funds of \$2,072,500 will be directed to the Capital Revolving Reserve Fund (XR1058). Closing and due diligence costs including harmonized sales tax, land transfer taxes and legal fees are estimated to be approximately \$85,000 for the transaction.

The net balance of the proceeds will be deposited in the Land Acquisition Reserve Fund (LARF) (XR1012).

The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial implications as identified in the Financial Impact section.

Comments

Decision History

In accordance with the City's Real Estate Disposal By-law, No. 814-2007, the Property was declared surplus on February 24, 2020 (DAF No. 2020-044) with the intended manner of disposal to be by inviting an offer to purchase the Property from the abutting property owner at 840-844 Broadview Avenue. https://www.toronto.ca/wp-content/uploads/2020/02/93ce-2020-044_838-Broadview-Av.pdf

PH11.9 "*Affordable Rental Housing Opportunity at 838 Broadview Avenue*" was adopted by Council at its Meeting on December 17 and 18, 2019 approving the substantial terms of the acquisition of the Affordable Housing Units. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH11.9>

PA10.4 "*Property Transaction/Parking Development at Municipal Car Park 282, 838 Broadview Avenue*" was adopted by the Toronto Parking Authority Board at its Meeting on November 25, 2019 approving the substantial terms of the sale of the Property and the acquisition of the Public Parking Garage. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PA10.4>

GM10.9 "*Acquisition of 838 Broadview Avenue*" was adopted by Council on March 31, 2016. Future redevelopment potential was noted in the report. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM10.9>

Background

The Property was acquired by the Toronto Parking Authority in 2016 at a purchase price of \$3,252,000. The Property is improved by a single storey commercial building containing two separate commercial units and 11 surface parking spots currently operated by the TPA. Potential for future redevelopment was identified at the time of the acquisition and subsequently lead to negotiations with the adjacent property owner, the Purchaser.

Mixed-use Development

The development site consists of the City Property and adjacent lands owned by the Developer at 840-844 Broadview Avenue. The sale will enable the City to leverage the value of its property and allow for the development an 8-storey mixed-use residential condominium project including affordable housing with a main floor retail component, approximately 73,467 square feet of gross floor area in the aggregate at and above grade, together with the Public Parking Garage.

The Public Parking Garage will be constructed by the Developer and the City will acquire the assets on completion of the development. It is intended that the Public Parking Garage will be operated by the TPA after Council designates the Public Parking Garage for municipal parking purposes by by-law.

The substantial terms of the Agreement of Purchase and Sale can be found in Appendix "A".

APPENDIX "A"

Major Terms and Conditions of APS

Purchaser/Developer	<p>Owners of 840-844 Broadview Avenue</p> <ul style="list-style-type: none"> • 2572344 Ontario Inc. and 2572345 Ontario Inc.
Vendor/City	City of Toronto
City Property	<p>838 Broadview Avenue, Toronto, Ontario (up to a certain ceiling height)</p> <ul style="list-style-type: none"> • Part of PIN 10395-0226 (LT) Part of Lot 45, Plan 257 Toronto having an upper level limit of 30.0 metres • City to retain ownership of air space above the upper limit; • City will grant a crane swing license over the retained air space for the construction of the Project
Project Lands/ Development Lands	<p>The Project Lands are the City Property and the Developer's Property: 838, 840, 842 and 844 Broadview Ave, being:</p> <p>Part of PIN 10395-0226(LT) as described above as the "City Property"; and</p> <p>All of PIN 10395-0023 (LT) Part Lot 46 Plan 257 Toronto; All of PIN 10395-0024 (LT) Part Lot 46 Plan 257 Toronto; and All of PIN 10395-0025 (LT) Part Lot 46, Plan 257 Toronto (the "Developer's Property").</p>
Project/Development	The Project will be a 8-storey mixed-use residential and commercial building with underground parking, including the Public Parking Garage.
Purchase Price for the sale of the City Property	<p>The Purchase Price for the City Property is Four Million Ninety Thousand (\$4,090,000.00) plus HST, subject to adjustments:</p> <p>The Purchase Price is based on \$135.00 per square foot times 30,286 square feet (being the estimated Gross Floor Area (GFA) for the City Property).</p> <p>Purchase Price adjustments will be made depending on the final approved zoning for the Project.</p>
Deposits/ Irrevocable Deposits	<p>The Purchaser shall pay the following deposits:</p> <ul style="list-style-type: none"> • "First Deposit" Fifty Thousand Dollars (\$50,000.00) payable upon execution of the APS. "Second Deposit" Three Hundred Thousand Dollars (\$300,000.00) Non-Refundable Deposit when the Project Lands are zoned in Final Form for the Project.
Purchaser's and Vendor's Conditions/ Due Diligence Period	<ul style="list-style-type: none"> • The Purchaser shall have 45 days to satisfy itself as to the title and condition of the City Property. • The Purchaser shall have prepared the Closing Reference Plan for the First Closing to the satisfaction of the City. The Closing Reference Plan will include the ceiling height for the whole of the Project Lands. • The Purchaser shall enter into an agreement with Bell Canada in respect of the Bell Canada plant on the Property. • The Purchaser shall have construction financing and lenders' agreements with the Vendor in respect of the Project. • The Purchaser shall have entered into the affordable housing agreement(s) described below.

Mutual Conditions re Zoning, Site Plan Approval, and Excavation/Shoring Permit	The transaction will be conditional upon the mutual conditions that re-zoning Site Plan Approval and issuance of an excavation/shoring permit for the Project Lands to permit the proposed new Project.
Transaction Conditional upon Affordable Housing Agreement(s)	The Project will include Affordable Housing under a separate contract(s) with the City pursuant to the major terms set out in the Council Decision Item PH11.9 " <i>Affordable Rental Housing Opportunity at 838 Broadview Avenue</i> " adopted by Council at its Meeting on Dec 17 and 18, 2019. The transaction will be conditional upon the affordable housing agreement(s) being entered into on or before the "First Closing".
Demolition Permit	The Developer shall obtain the Demolition Permit(s) necessary to demolish the existing buildings on the Project Lands. The Developer will not demolish the existing buildings on the City Property until after the First Closing.
Closings (First Closing and Second Closing)	<p>The Closing of the first transaction, being the sale of the City Property, shall take place after the satisfaction of the Mutual Conditions (the "First Closing").</p> <p>The Closing of the acquisition of the Public Parking Garage will take place when the Public Parking Garage is constructed and turned over to the City/TPA in accordance with the APS on the Public Parking Garage Turnover (the "Second Closing")</p> <p>The Second Closing shall, in any event, occur prior to Condominium Registration by the Developer.</p>
Lands to be Acquired for Public Parking Garage	The lands to be acquired by the City are the fee simple interest, together with and subject to appurtenant registered easements, in that portion of the Project Lands whereon the Public Parking Garage will be located.
Public Parking Garage	The Developer shall construct the Public Parking Garage consisting of no more than 35 spaces and no less than 31 spaces for public parking on the first floor below grade of the Parking Garage, based on the standard sizing prescribed by TPA standards and specifications.
S118 LTA Restriction/ Mortgagees and Transferees	<p>On the First Closing, the Developer will grant a s.118 Restriction on title to the Project Lands, in priority to all financial encumbrances.</p> <p>The s.118 Restriction will require the consent of the City for the transfer or charge of the Project Lands.</p>
Planning Applications/ Rezoning etc.	<ul style="list-style-type: none"> • All planning applications (including rezoning and site plan applications) by the Developer must be reviewed and approved by the City (in its capacity as Vendor). • The City, solely in its capacity as land owner, will provide consent to rezoning and other development / planning applications consistent with the proposed Development. The applicant will assume all costs and liabilities and no consent will fetter the discretion of the City to consider such applications.
Construction Bonds	<p>The construction and completion of the Parking Garage shall be secured by:</p> <ul style="list-style-type: none"> • a 50% performance bond (which performance bond shall not be released until one year after Substantial Completion of the Parking Garage) and a 50% labour and material bond which bonds shall be provided by the Purchaser in respect of the excavation, shoring, forming and concrete, electrical, mechanical and waterproofing contracts, in amounts representing 50% of the anticipated cost of such contracts.

<p>S119 Restrictive Covenants Agreement</p>	<p>On or before the First Closing, the Developer shall deliver to the City the following restrictive covenants:</p> <ul style="list-style-type: none"> • No parking spaces within the balance of the parking garage or elsewhere upon the Project Lands or any abutting lands owned or acquired by the Developer for the Development or used in connection with the Development, save for the public parking garage, shall be used as a commercial parking lot, nor shall such parking spaces be operated by a third-party commercial parking lot operator without the prior written consent of the City, which may be unreasonably or arbitrarily withheld in its sole and absolute direction. • The Developer acknowledges and agrees that the gross floor area of the Project shall not exceed 75,000 square feet without the Vendors prior written consent first having been obtained, which may be withheld in the City's sole and absolute discretion. • The ceiling height for the <u>entire Project</u> (which includes the lands owned by the Developer) shall not exceed 30 metres.
<p>Reciprocal Agreement</p>	<p>On or before the Public Parking Garage Turnover, the parties will execute and deliver to each other a reciprocal cost-sharing and easement agreement setting out the terms of the cost-sharing, responsibility for maintenance and repairs, decision-making and other similar matters, as between the parties, in order to enable each of the Developer (on behalf of the future condominium corporation) and the City / TPA to effectively own and operate their respective portions of the Parking Garage.</p>
<p>Interim Parking Lease Agreement</p>	<p>City/TPA to have the right to continue to operate the surface lot for \$Nil consideration, until demolition construction commences. The form of the Lease will be attached to the APS.</p>
<p>Interim Use of the Commercial Building on the City Property</p>	<p>From and after the payment of the Non-Refundable Second Deposit (at which time as the First Deposit also becomes Non-Refundable), the Developer will have the right to use any or all of the existing commercial building on the City Property, including associated signage, for the purposes of a sales or promotional office for the Project, upon notice to the City to terminate the existing commercial leases.</p> <p>If the Developer exercises the option to use the existing commercial building, the Developer will enter into a lease with the City and pay fair market rents for such use. The lease will be the City's standard form of lease.</p>
<p>Vacant Possession</p>	<p>If the Developer does not exercise the right to lease the existing commercial building on the City Property, the City will terminate the existing tenancies such that the Purchaser will have vacant possession on the First Closing.</p>
<p>Crane Swing License Agreement</p>	<p>The Vendor shall grant a crane swing license to the Purchaser on the First Closing for \$Nil consideration to permit the encroachment of a crane within the air rights retained by the City over City Property.</p>
<p>Public Parking Garage Consideration</p>	<p>On the Public Parking Garage Turnover, TPA shall pay to the Developer the sum estimated to be \$1,237,500 plus HST based on 33 spaces @ \$37,500 plus HST per space as consideration for the construction of the Public Parking Garage. In the event that the Development provides for more or less than 33 parking spaces for the Public Parking Garage, then the Public Parking Garage Consideration shall be adjusted accordingly by way of an increase/decrease to the Public Parking Garage Consideration by multiplying the sum of \$37,500 plus HST per space by the number of spaces above/below 33. The Public Parking Garage will consist of not less than 31 spaces and the City will purchase any increase in spaces in the Public Parking Garage in excess of 33 spaces, but not more than 35 parking spaces. The Vendor will provide an HST Certificate on the Second Closing to confirm HST registration particulars and will self-assess on the acquisition of the Public Parking Garage.</p>

Public Parking Garage Turnover	<p>The Public Parking Garage Turnover shall occur when the Public Parking Garage has been constructed and turned over to the City/TPA.</p> <p>Substantial completion of the Public Parking Garage is expected to occur thirty six (36) months following construction commencement.</p>
Solicitor's Title Opinion to be provided on Second Closing	<p>The Developer shall obtain a legal title opinion confirming that the City/TPA has good freehold title to the lands comprising the Public Parking Garage, together with all ancillary transfers of easements required for the use and operation of the Public Parking Garage, in form and content satisfactory to the City Solicitor.</p>
Environmental	<p>The APS will include an acknowledgment by the Developer that it is purchasing the City Property on an "as is, where is" basis including its environmental condition, state of repair, deficiencies and encroachments.</p> <p>The Developer shall also provide an indemnity in favour of the TPA and the City from and against all claims in connection with the environmental activities or omissions of the Developer in respect of the City Property, the Project Lands and any of the Developer's obligations under the APS.</p> <p>The Developer will release the TPA and the City from all claims arising out of the pre-existing environmental condition of the City Property.</p> <p>The Developer will have environmental obligations in respect of the demolition of existing buildings and construction of the Project, including:</p> <ul style="list-style-type: none"> • retain a "Qualified Person" under the <i>Environmental Protection Act</i>; • all environmental reports to be provided to the City; • provide reliance letters to the City from such Qualified Persons in form and content satisfactory to the City; • carry out all remediation of the City Property and the Project Lands to the satisfaction of the MECP • cause a Record of Site Condition to be filed in respect of the City Property and Project Lands; • comply with the MECP's most current "<i>On-Site And Excess Soil Management Regulation (O.Reg. 406/19)</i>," or any subsequent MECP regulation dealing with excess soil, if necessary. <p>From and after the Public Parking Garage Turnover, the City/TPA will assume environmental responsibility for the Public Parking Garage only.</p>

Appendix "B"

Location Map & Sketch

