

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

TRACKING NO.: 2021-194

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

Prepared By:	Miles Argue	Division:	Corporate Real Estate Management
Date Prepared:	July 15 2021	Phone No.:	(416) 397-7522

Purpose	To obtain authority for the City of Toronto to enter into an amending agreement (the "Agreement") to amend the East Bayfront Child Care Centre Purchase and Sale Agreement made as of May 1, 2020 (the "Agreement of Purchase and Sale ") between Aquabella Bayside Toronto Inc. as nominee for and on behalf of Aquabella Bayside Toronto Partnership, as vendor, and City of Toronto (the "City"), as purchaser, with respect to the City acquisition of the Property for a Child Care Centre.
Property	The property known municipally as 75 Edgewater Drive, being part of Block 3 on Plan 66M-2542, designated as Parts 15 & 16 on Plan 66R-32009 (the "Property") also known as the "Child Care Centre Strata Land".
Actions	<ol style="list-style-type: none"> 1. Authority be granted for the City, as purchaser, to enter into the Agreement to amend the terms and conditions relating to the acquisition of the Property under the Agreement of Purchase and Sale substantially on the major terms and conditions set out in Schedule "A" annexed hereto, and including such other terms and conditions as the Director, Transaction Services deems appropriate, and in a form acceptable to the City Solicitor. 2. The City Solicitor is authorized to complete the transactions on behalf of the City under the Agreement of Purchase and Sale as amended by the Agreement, including paying any incidental administrative expenses and fees, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as the City Solicitor considers reasonable.
Financial Impact	As previously authorized (in consultation with the Chief Financial Officer) by DAF 2019-129, The future operator of the child care centre will assume operational costs associated with the Child Care Property, including costs associated with the Shared Facilities Agreement. The Shared Facilities Agreement provides that the City is not required to share in the cost-sharing arrangements until the earlier of i) the date that the City opens the Child Care Property for business; and (ii) the first anniversary of the date of registration of the Condominium. If for any reason, the Child Care Property is not open by the first anniversary of the date Condominium registration, Children's Services will absorb the costs related to the Operation of the Child Care Property, for a maximum of 1 year, which are estimated to be \$2,897 for the year. The funding to absorb these costs is included in the Operating Base Budget for Children's Services. Therefore, there is no financial impact to City arising out of the agreements authorized herein.
Comments	<p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial implications as identified in the Financial Impact section.</p> <p>The authority for the Agreement of Purchase and Sale, among other related agreements and ancillary transactions, was obtained in accordance with Item EX46.33 "Staff Review of Waterfront Toronto's Proposed Sale and Lease of City Lands for Waterfront Revitalization – Bayside" at its meeting on August 25th, 26th and 27th, 2010 and pursuant to DAF 2019-129.</p> <p>(Comments continued in Schedule "A")</p>
Major Terms	See Schedule "A"

Property Details	Ward:	10 – Spadina-Fort York
	Assessment Roll No.:	1904 064 010 011 180000
	Approximate Size:	irregular
	Approximate Area:	849 m ² ± (9,139 ft ² ±) indoor space & 336 m ² ± (3,626 ft ² ±) outdoor space
	Other Information:	

A.	Manager, Real Estate Services has approval authority for:	Director, Real Estate Services has approval authority for:
<p>1. Acquisitions:</p> <p>2A. Expropriations Where City is Expropriating Authority:</p> <p>2B. Expropriations For Transit-Related Purposes Where City is Property Owner or Has Interest in Property Being Expropriated:</p> <p>3. Issuance of RFPs/REOIs:</p> <p>4. Permanent Highway Closures:</p> <p>5. Transfer of Operational Management to Divisions, Agencies and Corporations:</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/Licensors):</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 \$50,000.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$50,000.</p> <p><input type="checkbox"/> (a) Acceptance of statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$50,000.</p> <p><input type="checkbox"/> (b) Request Hearings of Necessity.</p> <p><input type="checkbox"/> (c) Waive Hearings of Necessity.</p> <p>Delegated to more senior positions.</p> <p>Delegated to more senior positions.</p> <p>Delegated to more senior positions.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to more senior positions.</p> <p><input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$50,000.</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>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$50,000.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to more senior positions.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to more senior positions.</p> <p>Delegated to more senior positions.</p>	<p><input checked="" 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><input type="checkbox"/> (a) Acceptance of statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.</p> <p><input type="checkbox"/> (b) Request Hearings of Necessity.</p> <p><input type="checkbox"/> (c) Waive Hearings of Necessity.</p> <p><input type="checkbox"/> Issuance of RFPs/REOIs.</p> <p><input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.</p> <p>Delegated to more senior positions.</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><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 \$1 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>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</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 roads, 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 subject to General Condition (U)).</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/Estoppel 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. 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 each position 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 the Deputy City Manager, Corporate Services and any related documents.

Pre-Condition to Approval

Complies with General Conditions in Appendix B of City of Toronto Municipal Code Chapter 213, Real Property

Consultation with Councillor(s)

Councillor:	Joe Cressy	Councillor:	
Contact Name:	Tom Davidson	Contact Name:	
Contacted by:	Phone <input type="checkbox"/> X <input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Memo <input type="checkbox"/> Other <input type="checkbox"/>	Contacted by:	Phone <input type="checkbox"/> E-mail <input type="checkbox"/> Memo <input type="checkbox"/> Other <input type="checkbox"/>
Comments:	No Objections (2021.07.15)	Comments:	

Consultation with Divisions and/or Agencies

Division:	Children's Services/Financial Planning	Division:	Waterfront Secretariat (City Planning)
Contact Name:	Corina Ghimbasan/Patricia Libardo	Contact Name:	Jayne Naiman
Comments:	Comments Incorporated (email 21.07.15/21.07.15)	Comments:	Comments Incorporated (2021.07.15)

Legal Services Division Contact

Contact Name: Kathleen Kennedy, Solicitor (Real Estate Law)

DAF Tracking No.: 2020-194	Date	Signature
<input checked="" type="checkbox"/> Recommended by: Daran Somas, Manager, Real Estate Services	July 15, 2021	Signed by Daran Somas
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Alison Folosea, Director, Real Estate Services	July 16, 2021	Signed by Alison Folosea

SCHEDULE "A"

<p>Comments (Contd.)</p>	<p>One of the related agreements contemplated under the Agreement of Purchase and Sale was a shared facilities agreement among the City, the proposed Residential Condominium Corporation, and the Retail Component Owner. It was originally contemplated that there would be "Two-Way Shared Facilities" shared by the City and the Residential Condominium Corporation' and "Three-Way Shared Facilities" shared among all three parties. It is now contemplated that there will only be Three-Way Shared Facilities under the Shared Facilities Agreement. This is not a material change and will actually provide for easier administration of the Shared Facilities Agreement. The final proportionate shares of the three components of the project are as follows: Residential Condominium 96.15%; Child Care Centre 2.14% and Retail Component Owner 1.71%. The final proportionate shares are substantially the same as the original draft percentages for the separate "Two Way" and "Three Way" proportionate shares and the final Shared Facilities Budget is substantially the same as the original draft Shared Facilities Budgets for the separate "Two Way" and "Three Way" facilities with the contemplated 5% inflation factor applied to the final Shared Facilities Budget.</p> <p>The Agreement of Purchase and Sale originally contemplated that closing would take place on the 60th day after publication of a certificate or declaration of "Substantial Performance"; however, the Vendor has advised that while substantial performance has been achieved with respect to the construction of the Child Care Centre within the Property, there is not just one contractor who performed work on the Property and each contractor would be publishing certificates for their respective contracts. Some of the contractors are continuing to perform work on the rest of the building in the project Lands. Accordingly, publication of the last certificate or declaration of "Substantial Performance" will not take place until substantial performance has been achieved with respect to the last contract completed, which would result in delays to the fit-out construction of the Child Care Centre by Waterfront Toronto, and delays in the selection of the future Child Care Centre operator by Children's Services. The Vendor has offered that the Closing be set as a particular date, that the Vendor will covenant to discharge any construction liens that may affect the Property, and the Vendor will provide a \$1 million letter of credit to the City until the last contract has been substantially performed.</p> <p>Following negotiations with the Vendor, City staff in Children's Services, and Corporate Real Estate Management Divisions, in consultation with City Legal Services, and the Waterfront Secretariat, recommend that the City enter into the Agreement substantially on the terms and conditions set out in Schedule "A" in order to avoid delays in the provision of an operational Child Care Centre in East Bayfront, and to simplify the administration and maintenance of any shared facilities in future.</p>
<p>Major Terms</p>	<p align="center">Schedule "A" Major Terms</p> <ol style="list-style-type: none"> 1. The Agreement of Purchase and Sale be amended to provide that: the Closing shall be completed on a specific date, currently contemplated to be July 22, 2021. 2. The Vendor shall covenant to discharge any construction liens that may affect the Property, indemnify the City in respect of same, and the Vendor will provide, within 5 days of closing, a \$1 million letter of credit to the City until the last contract has been substantially performed. 3. The Agreement of Purchase and Sale be amended to reflect the changes to the Shared Facilities Agreement and Shared Facilities Budget as Three-Way Shared Facilities shared by the components of the project as follows: <ul style="list-style-type: none"> • Residential Condominium 96.15%; • Child Care Centre 2.14%; • Retail Component Owner 1.71%.

ATTACHMENT 1

