



The Municipal Corporation of the Town of Fort Erie

By-law No. 68-2019

Being a By-law to Authorize the Entry into and Execution of an Agreement with JPAS International Inc. for the Acquisition of the former Fort Erie Public School and the former Fort Erie High School sites

Whereas the Board of Trustees of the District School Board of Niagara ("DSBN") has resolved that the former Fort Erie Public School site at 474 Central Avenue and the former Fort Erie High School site at 7 Tait Avenue, hereinafter referred to as the "lands", are surplus to the needs of DSBN; and

Whereas in accordance with *Ontario Regulation 444/98*, DSBN has issued a proposal to sell, lease or otherwise dispose of the lands to various public entities including the Town; and

Whereas JPAS International Inc. ("JPAS") wishes to acquire the lands for the purpose of developing a school for international students with other related buildings as well as other related amenities; and

Whereas JPAS has requested the Town to respond to DSBN's proposal for the disposition of the lands by submitting an Expression of Interest and Offer to Purchase, so that the Town can acquire and then transfer to JPAS the lands for its purposes; and

Whereas the Town is agreeable to the request, subject to the terms of an Agreement with JPAS agreeing to bear all costs, expenses, fees and taxes of the Town to purchase the lands from DSBN, and pay a Community Contribution payment, and agreeing to indemnify the Town with respect to the purchase by the Town from DSBN of the lands and the transfer thereof to JPAS, as set forth in the Agreement;

Whereas Report No. CAO-13-2019 was considered and approved at the Council-in-Committee Meeting held on May 6, 2019, to authorize the entry into and execution of an Agreement with JPAS,

Now therefore the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

1. **That** an Agreement dated March 19, 2019 between The Corporation of the Town of Fort Erie and JPAS International Inc. providing for the Town to purchase the former Fort Erie Public School site at 474 Central Avenue and the former Fort Erie High School site at 7 Tait Avenue and transfer same to JPAS International Inc. for the purpose of developing a school for international students with other related buildings as well as other related amenities, as attached hereto, is approved and authorized.
2. **That** the Mayor and Clerk are authorized and directed to execute the Agreement and any related documents and to affix the corporate seal thereto.

- Read a first, second and third time and finally passed this 13th day of May, 2019.**

Clerk

Schedule "A" to By-law No. 68-2019

This Agreement dated this 19th day of March, 2019.

BETWEEN:

THE CORPORATION OF THE TOWN OF FORT ERIE

(hereinafter called the "Town")

-And-

JPAS INTERNATIONAL INC.

(hereinafter called "JPAS")

Whereas the Board of Trustees of the District School Board of Niagara ("DSBN") has resolved that the lands described in Schedule "A", attached to and forming part of this Agreement, being the former Fort Erie Public School site at 474 Central Avenue and the former Fort Erie High School site at 7 Tait Avenue, hereinafter referred to as the "lands", are surplus to the needs of DSBN; and

Whereas in accordance with *Ontario Regulation 444/98*, DSBN has issued a proposal to sell, lease or otherwise dispose of the lands to various public entities including the Town; and

Whereas JPAS wishes to acquire the lands for the purpose of developing a school for international students with other related buildings including a headquarters to oversee its operations in Canada and the U.S.A. and a hotel or condominium for visiting parents and exchange teachers from China and residences for students as well as other related amenities; and

Whereas JPAS has requested the Town to respond to DSBN's proposal for the disposition of the lands by submitting an Expression of Interest and Offer to Purchase, so that the Town can acquire and then transfer to JPAS the lands for its purposes; and

Whereas as the Town is not itself interested in acquiring the lands that JPAS wishes to acquire except to facilitate a transfer thereof to JPAS; and

Whereas the Town is agreeable to the request, subject to the terms of this Agreement including JPAS agreeing to bear all costs, expenses, fees and taxes of the Town to purchase the lands from DSBN, and pay a Community Contribution payment, and agreeing to indemnify the Town with respect to the purchase by the Town from DSBN of the lands and the transfer thereof to JPAS, as set forth in this Agreement.

NOW THEREFORE this Agreement witnesseth as follows:

1. The Town and JPAS agree that all of the recitals in this Agreement are true and accurate and shall form part of this Agreement.

2. The Town and JPAS agree that Schedule "A" hereto shall form part of this Agreement.
3. JPAS warrants and agrees that it is a corporation, incorporated under the laws of Canada and that it has the authority, capacity and the willingness:
 - (i) To enter into this Agreement; and
 - (ii) To pay the costs, expenses, fees and taxes payable by the Town to purchase the lands from DSBN described in paragraph 4 herein; and
 - (iii) To pay the Community Contribution payment described in paragraph 4 herein; and
 - (iv) To indemnify the Town as described in paragraph 6 herein; and
 - (v) To take title to the lands upon the Town transferring the lands to it as described in paragraph 9 herein.
4. JPAS agrees that it shall pay all of the Town's costs, expenses, fees and taxes for the purchase of the lands from DSBN, together with a Community Contribution payment, which costs, expenses, fees, taxes and payments shall include, but are not limited to, the following:
 - (i) The full purchase price including the deposit payable by the Town to DSBN for the purchase of the lands;
 - (ii) All expenses payable by the Town to carry out any study(ies) that the Town, in its sole discretion, determines are required for the purchase of the lands from DSBN including environmental studies;
 - (iii) All land transfer taxes payable by the Town for the purchase of the lands from DSBN;
 - (iv) All registration fees payable by the Town for the purchase of the lands from DSBN;
 - (v) All of the Town's legal fees, survey fees and appraisal fees for the purchase of the lands from DSBN;
 - (vi) A Community Contribution payment of ten percent (10%) of the purchase price of the lands.
5. The Town will provide JPAS with a copy of the Offer to Purchase that it intends to submit to DSBN for the purchase of the lands prior to its submission to DSBN, together with a list of the amounts of all the costs, expenses, fees, taxes and payments referred to in paragraph 4 herein. JPAS agrees to pay to the Town, by

certified cheque, the amount of all of the costs, expenses, fees, taxes and payments listed and referred to in paragraph 4 herein, prior to the Town submitting to DSBN the Offer to Purchase the lands. The funds so paid by JPAS shall be deposited by the Town's Treasurer into the Town's bank account and JPAS authorizes the Town to draw upon and use the funds so deposited, to the full extent thereof, to pay for the costs, expenses, fees, taxes and payments referred to in paragraph 4 herein. JPAS agrees that the Town will not submit the Offer to Purchase to DSBN unless and until it receives a certified cheque from JPAS payable to the Town for the full amount of all costs, expenses, fees, taxes and payments listed and referred to in paragraph 4 herein.

6. JPAS agrees that it will indemnify and save harmless the Town and its agents, contractors, employees and elected officials from and against all manner of actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly by reason of this Agreement or anything done pursuant to this Agreement. The indemnity shall be prepared by the Town in a form acceptable to it and shall be executed by JPAS prior to the Town submitting to DSBN the Offer to Purchase the lands. JPAS agrees that the Town will not submit the Offer to Purchase to DSBN unless and until it receives the indemnity executed by JPAS.
7. JPAS agrees that if the amount of the costs, expenses, fees, taxes and payments listed and referred to in paragraph 4 herein increases at any time for any reason after the Town has submitted the Offer to Purchase to DSBN, JPAS will immediately pay to the Town, by certified cheque, the amount of such increase as notified by the Town and the Town will not complete the purchase of the lands until it has received payment of such increased amount from JPAS.
8. If DSBN does not accept the Town's Offer to Purchase the lands, the Town will notify JPAS and this Agreement will be null and void and the parties shall not have any further obligations to each other and the Town shall refund, without interest to JPAS, all of the funds paid to it by JPAS under this Agreement, except for that amount of the funds that are required, in the sole opinion of the Town's Treasurer, to reimburse the Town for the amount of any costs, expenses, fees and taxes referred to in paragraph 4 herein that the Town has incurred under this Agreement.
9. If DSBN accepts the Town's Offer to Purchase the lands and the purchase is completed, the Town will transfer the lands to JPAS immediately after the transfer to the Town from DSBN has been registered, subject to the following terms which JPAS agrees to:
 - (i) The Transfer, including the Land Transfer Tax Affidavit shall be prepared in registrable form at the expense of JPAS and shall be engrossed from the Town as Transferor to JPAS as Transferee.
 - (ii) JPAS shall be responsible for the completion of the Land Transfer Tax Affidavit and shall register the Transfer and pay all applicable registration fees and taxes due upon registration.

- (iii) The consideration for the Transfer of the lands shall be the amounts paid by JPAS to the Town pursuant to paragraphs 5 and 7 of this Agreement.
 - (iv) That the Town gives JPAS no representation or warranty of any kind including with respect to the title of the lands, the condition of the lands including environmental or any buildings thereon or that the future intended use of the lands by JPAS is or will be lawful.
 - (v) That JPAS shall accept the lands including title to the lands on an "as is where is" basis without regard to the condition and state of repair of the lands, including but not limited to any outstanding work orders or deficiency notices, and the location of any and all structures, walls, retaining walls or fences (free standing or otherwise) or encroachments by buildings or fences or otherwise on the lands or adjoining properties and streets.
 - (vi) That JPAS acknowledges and agrees that the Town is under no obligation by virtue of the transfer of the lands to it to grant any approvals, including approvals or changes to the Official Plan or Zoning By-law or with respect to Site Plan Control, Minor Variances and Building Permits or to support approvals required by any other approval authority, which may be necessary for the proposed use of the lands by JPAS.
10. Notwithstanding any other provisions of this Agreement, JPAS agrees that none of the provisions of this Agreement (including a provision stating a party's intention) is intended to operate, nor shall have the effect of operating, in any way to fetter either the Municipal Council which authorized the execution of this Agreement or any of its successor Councils in the exercise of any of Council's discretionary powers, duties or authorities. JPAS hereby acknowledges that it will not obtain any advantageous planning or other consideration or treatment by virtue of it having entered into this Agreement or by virtue of the existence of this Agreement.
11. Any notices required or permitted to be given pursuant to the terms of this Agreement shall be given in the manner hereinafter set out, in writing, addressed in the case of:
- a) the Town, 1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6, Email: tkuchyt@forterie.ca, Facsimilie: 905-871-4022; or
 - b) JPAS, 3336 Sawmill Valley Drive, Mississauga, Ontario, L5L 2S2, Email: contact_Paul6@Yahoo.ca, Facsimilie: _____

and the giving of such written notice shall be deemed to be complete, where notice is given by personal service, on the day that the serving of written notice is completed, and where notice is given by prepaid registered mail, two (2) days after the date of mailing, and where notice is given by telephone transmission of a facsimile or other electronic format of the notice, on the day that the transmission of the written notice is completed.

SCHEDULE "A"
to an Agreement between
The Corporation of the Town of Fort Erie and
JPAS International Inc.

Lands described as all of PIN 64228-0142 (LT) being;
Lts 69, 70, 71, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109 & 110, All of
Warren Street East & Pt of College Ave, both East of Central Ave closed by
unregistered By-law and By-law 1429, PI 530; Pt Lts 27, 28, 29, 30, 31, 32 & Pt Blocks
G & H W/S Niagara Street, PI 525; Pt Lot 2, PI 347; being Pts 1, 2 & 3, on PI 59R15204;
S/T RO205456; Town of Fort Erie.