



**STAFF REPORT  
ACTION REQUIRED**

**Extension of Closing Date for Section 30 Agreement  
between the City and 863880 Ontario Limited  
Concerning Lands on the west side of Strachan Avenue**

<b>Date:</b>	May 25, 2007
<b>To:</b>	Government Management Committee
<b>From:</b>	Chief Corporate Officer
<b>Wards:</b>	19 – Trinity - Spadina
<b>Reference Number:</b>	P:\2007\Internal Services\F&re\Gm07043F&re – (AFS 5139)

**SUMMARY**

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In 2001, the City entered into a section 30 agreement with 863880 Ontario Limited, the owner of lands on the west side of Strachan Avenue, as required for the proposed Front Street Extension. This staff report is requesting authority to exercise the City’s option to extend the closing date for a further two-year period until October 31, 2009. If the City does not extend the closing date as recommended, the City is contractually required to close the transaction on October 31, 2007, at which time the City will be required to pay \$1 million compensation for the lands, followed by the balance of the compensation that is payable once the amount has been determined by the Ontario Municipal Board (“OMB”) pursuant to the Expropriations Act.

**RECOMMENDATIONS**

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**The Chief Corporate Officer recommends that:**

1. pursuant to the existing agreement under section 30 of the Expropriations Act (the “Section 30 Agreement”) between the City and 863880 Ontario Limited (“863880”) for certain lands (the “Lands”) on the west side of Strachan Avenue, the City exercise its option to extend the closing date from October 31, 2007 to October 31, 2009, in a form satisfactory to the City Solicitor; and
2. the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

## **Financial Impact**

Approval of this report will result in no immediate financial impact. If the City does not extend the closing date as recommended, the City will be required to close the transaction on October 31, 2007, at which time the City will be required to pay \$1.0 million compensation for the Lands, followed by the balance of the compensation that is payable once the amount has been determined by the OMB pursuant to the Expropriations Act. Funding for the expropriation of the Lands is included in the Waterfront Revitalization Initiative Capital Budget, beginning in 2010 (funded from Reserves and the other orders of government). Should the transaction close on October 31, 2007, the funding would need to be accelerated, through a separate report, with a net \$0 impact on the City's 2007 Approved Capital Budget.

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

## **DECISION HISTORY**

At its meeting held on December 4, 5 and 6, 2001, City Council adopted Clause 23 of Administration Committee Report No. 18, and thereby authorized the City to enter into a Section 30 agreement with 863880 for the acquisition of the Lands. At its meeting held on April 25, 26 and 27, 2006, City Council adopted Notice of Motion J (37) which authorized certain amendments to the Section 30 Agreement, including giving the City the option to extend the closing date one or more times up to February 28, 2012.

## **ISSUE BACKGROUND**

In 2001, the City entered into the Section 30 Agreement with 863880 for the acquisition of the Lands for the Front Street Extension. In the Section 30 Agreement, the parties agreed that the date for valuing the market value of the Lands would be December 14, 2001, which is the date the Section 30 Agreement was signed. With City Council's approval, the closing date of the transaction was extended a number of times by mutual agreement with 863880.

In 2006, the City and 863880 entered into an agreement amending the Section 30 Agreement, which gives the City the right to further extend the closing date one or more times to February 28, 2012 at the latest, at no additional cost to the City. The amending agreement also gives each of the City and 863880 certain rights for a period of 20 years following the closing date if the City no longer requires the Lands. During the 20 year period following closing, the City will have the right to require 863880 to repurchase the Lands from the City at the same price the City paid, plus 6% interest per annum. During the same 20 year period, if the City determines that the Lands are not required for the Front Street Extension and City Council declares the Lands to be surplus to municipal requirements, 863880 will have the option to repurchase the Lands from the City at the same price the City paid, plus 6% interest per annum.

The City is currently contractually required to close the transaction on October 31, 2007. If the City wishes to exercise its option to extend the closing date beyond October 31, 2007, the City must give 863880 at least 120 days prior written notice of the extension, which means notice must be delivered no later than July 3, 2007.

The extensions to date have benefited both parties. They have allowed the City to defer payment of the \$1.0 million dollars compensation that is payable on closing, as well as payment of the balance of the compensation owing once it is determined pursuant to the Expropriations Act. As for 863880, the extensions have allowed 863880 to minimize its costs of remediating its adjoining development site by making use of the Lands for remediation.

## **COMMENTS**

The City does not require immediate use of the Lands for the proposed Front Street Extension and Transportation Staff deems it appropriate to recommend a two-year extension period at this time. If the City does not extend the closing date as recommended, the City is contractually required to close the transaction on October 31, 2007, at which time the City will be required to pay \$1.0 million dollars compensation for the Lands, followed by the balance of the compensation that is payable once the amount has been determined by the OMB pursuant to the Expropriations Act. Extending the closing date will not result in the City having to pay any additional compensation for the Lands even though the value of the Lands probably continues to increase. Accordingly, it is to the City's advantage to defer closing and defer paying for the Lands.

In summary, the proposed two-year closing extension for the Lands relating to the Section 30 Agreement benefits the City and Transportation staff recommends it.

## **CONTACTS**

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## **SIGNATURE**

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Bruce Bowes, P. Eng.  
Chief Corporate Officer

## **ATTACHMENTS**

Appendix "A" – Site Map