



STAFF REPORT ACTION REQUIRED

Implementation Report #2: New Model to Enhance Toronto's Economic Competitiveness

Date:	May 16 th , 2009
To:	Executive Committee
From:	City Manager
Wards:	All
Reference Number:	

SUMMARY

The implementation of the New Model to Enhance Toronto's Economic Competitiveness is on-going with the start-up of Build Toronto and Invest Toronto.

This report addresses five specific implementation requirements as follows:

1. recommends Shareholder Directions for Build Toronto and Invest Toronto;
2. establishes the transitional role for TEDCO and its board structure;
3. responds to Council's requests for further information on Invest Toronto including the conduct of meetings and alignment of activities with regional marketing initiatives including the GTMA and TRRA;
4. addresses issues raised by Executive Committee on May 4, 2009 regarding Build Toronto protocols and affordable housing; and,
5. recommends amendment to the Lobbyist Registrar By-law to exempt Build Toronto and Invest Toronto from the requirement to register as lobbyists when dealing with the City.

RECOMMENDATIONS

The City Manager recommends that:

Build and Invest Toronto

1. Council approve the Shareholder Direction for Build Toronto Inc., as set out in Appendix A, and for Invest Toronto Inc., as set out in Appendix B.
2. Build Toronto Inc. and Invest Toronto Inc. be exempted from the Lobbyist Registry and that the City Solicitor be authorized to introduce the necessary Bill in Council amending Chapter 140 of the Municipal Code, adding Build Toronto Inc. and Invest Toronto Inc. to the list of exempted organizations in the By-law under Schedule A of "Exempted Municipal Level Corporations and Other Bodies."
3. the Deputy City Manager responsible for affordable housing issues periodically report to the Affordable Housing Committee on the agreed upon affordable housing targets for properties transferred to Build Toronto;

TEDCO

4. effective immediately, in accordance with intentions outlined in the Council-approved report entitled "New Model to Enhance Toronto's Economic Competitiveness" approved by Council in October 2008, the Board of Directors of TEDCO be comprised of 4 members including:
 - (a) the General Manager of EDCT as Chair;
 - (b) the Deputy City Manager and Chief Financial Officer or designate;
 - (c) the Deputy City Manager charged with Waterfront issues or designate; and
 - (d) the Chief Corporate Officer;
5. as soon as is practical, in keeping with a re-defined mandate, the TEDCO Board be requested to re-brand the corporation to reflect its role as a Port Lands leasing company; and
6. the City Manager be authorized to amend the Shareholder Direction to TEDCO and the City Solicitor be authorized to amend, on behalf of the shareholder of TEDCO, the TEDCO By-law and any other documents including the existing Memorandum of Understanding among the City, Waterfront Toronto and TEDCO, if required, to reflect these changes and any prior changes authorized by the City.

Financial Impact

There is no financial impact.

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

DECISION HISTORY

In October 2008, Council approved a New Model to Enhance Toronto's Economic Competitiveness and established two new corporations, Invest Toronto and Build Toronto.

Invest Toronto's mandate is to engage the private sector in promoting Toronto as an investment opportunity through marketing, conducting trade missions, and coordinating with other governments and business.

Build Toronto's mandate is to engage private and public sector partners in the development of under-utilized City real estate to unlock the value of those lands, stimulate the creation of desirable jobs, and regenerate neighbourhoods, in a manner consistent with the City's broader economic, social and environmental goals.

In addition, Council amended the mandates of:

- Economic Development, Culture and Tourism (EDCT) to take on the incubator program from the City of Toronto Economic Development Corporation (TEDCO),
- Facilities and Real Estate (FR&E) to institute a centralized real estate strategy that includes all City land holdings including those managed or owned by City Agencies, Boards, and Commissions (ABCs) such as the TTC, and
- TEDCO to limit its mandate to leasing and property management for Port Lands properties awaiting future development by Waterfront Toronto.

Council directed the City Manager to:

- 1) develop and recommend for Council approval a Shareholder Direction for each of Build Toronto and Invest Toronto.

<http://www.toronto.ca/legdocs/mmis/2008/ex/reports/2008-10-06-ex24-cr.pdf>

At its meeting of February 23, 24 and 25, 2009, Council received the first update on the progress to implement the new model. At that time Council approved a number of implementation actions including: board remuneration, asset transfer policy and corporate by-laws. Council requested the City Manager to report further on:

- 2) the rationale for not requiring that Invest Toronto have open meetings; and
- 3) how the strategic plan of Invest Toronto aligns with the Toronto Region Research Alliance (TRRA) and the Greater Toronto Marketing Alliance (GTMA).

<http://www.toronto.ca/legdocs/mmis/2009/cc/decisions/2009-02-23-cc31-dd.htm>

At its meeting on May 4th, 2009, while considering a report declaring a number of City properties surplus for the purpose of transferring or turning over such properties to Build Toronto for development, the Executive Committee requested:

- 4) staff to submit a further report to the Executive Committee on how Build Toronto will be developing potential protocols around community involvement, architecture, public open space, design and environmental standards; and
- 5) that when a decision is made by Build Toronto with respect to affordable housing, a report be submitted to the Affordable Housing Committee outlining these decisions.

<http://www.toronto.ca/legdocs/mmis/2009/ex/decisions/2009-05-04-ex32-dd.htm>

COMMENTS

A. Shareholder Directions:

The City Manager, in consultation with all relevant stakeholders, has developed shareholder directions for Build Toronto and Invest Toronto. The new boards were engaged in that process and their comments have been taken into account in finalizing the documents. The shareholder direction for each corporation sets out the corporation's mandate, the City's objectives for each corporation, board responsibilities and authorities, operating principles, reporting requirements, accountability mechanisms and expectations of how the City and the board will work together. Both Invest Toronto and Build Toronto will operate at arm's length in operations, but in a close policy relationship with the City.

B. Invest Toronto Meeting Format

The staff report, considered by Council at its meeting of February 23, 24 and 25, 2009, presenting the by-laws of Build Toronto and Invest Toronto for Council approval, recommended that Build Toronto and Invest Toronto not be required to hold meetings in public, but could hold meetings in public at the discretion of the Chair. Council approved the Invest Toronto by-law, but requested the City Manager to report back to Council on the merits of Invest Toronto holding meetings open to the public. The issue has been carefully reviewed with the General Manager of EDCT in conjunction with the Acting CEO of Invest Toronto and the Chair of the Economic Development Committee.

The by-law was developed in accordance with the *Business Corporations Act* (Ontario) and the *City of Toronto Act*, Ontario Regulations 609/06 governing City Service Corporations. The Invest Toronto by-law does not prohibit open meetings, but does not require open meetings for every board meeting. Open meetings may be called at the discretion of the Chair. For example, the Board may hold an annual meeting open to the public in order to provide information to stakeholders on Invest Toronto's strategic plan and activities or may hold public meetings to elicit public input on specific issues.

The Council approved by-law sets out an appropriate meeting format for Invest Toronto to conduct its business. Comparative research in other jurisdictions indicates that other investment attraction and economic development agencies do not typically hold open meetings with the exception of annual meetings. For example, the Greater Toronto Marketing Alliance (GTMA) and the Toronto Region Research Alliance (TRRA) do not conduct open board meetings.

At meetings of the Invest Toronto Board of Directors, much of the discussion will focus on marketing and sales strategies, and the specific expansion and job relocation plans of individual companies, many of which are publicly traded. These are very sensitive matters that require a high degree of confidentiality. Open meetings would therefore limit the ability of Invest Toronto to attract potential investor companies. A closed meeting format also enables the City to gain from the specialized expertise of the new Invest Toronto Board of Directors. Fortright advice from Board members, especially those from the private sector, could be hampered by the knowledge that their opinions, information and/or advice would be public. Their knowledge of

international business contacts, networks and opportunities may be shared with the City for mutual advantage and public service; however, this information should not be shared with international competitors in a public forum. Given the confidential nature of business planning and transactions that Invest Toronto will undertake, holding regular closed board meetings with the option for open special meetings is the most appropriate and effective way for Invest Toronto to achieve the City's objectives and accomplish its mandate.

The City, as sole shareholder, has reporting mechanisms in place to ensure that Council is apprised of the strategic plans and business activities undertaken by Invest Toronto. The Shareholder Direction requires Invest Toronto to provide regular reports both to City Staff and to Council, including an annual report to the Economic Development Committee. In addition, the Board includes the Mayor as Chair and other directors include the Chair of the Economic Development Committee and the General Manager of EDCT. Further, Invest Toronto is subject to the disclosure requirements of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). Lastly, the City Manager, Chief Financial Officer and the Auditor General are all guaranteed unrestricted access to the records of Invest Toronto at any time.

C. Invest Toronto Alignment with GTMA and TRRA

Invest Toronto will develop a strategic plan in 2009 which will consider an appropriate alignment with the Toronto Region Research Alliance (TRRA) and the Greater Toronto Marketing Alliance (GTMA).

There is potential for collaboration, and also a division of labour, based on the distinct but inter-related mandates of the three organizations. The Toronto Region Research Alliance (TRRA) works closely with the region's universities, colleges and hospitals to attract research-intensive companies to the region. This is a small part of Invest Toronto's broader mandate to market Toronto in all sectors to attract investment. Invest Toronto's mandate is focused on ensuring that the City of Toronto is maximizing the 'selling' of Toronto for all types of foreign investment. It is expected that Invest Toronto will use its specialized local knowledge to work with individual companies that are potential investors to assist them in locating in Toronto. The Greater Toronto Marketing Alliance (GTMA) works to help co-ordinate outward facing marketing and sales efforts of local regions and municipalities. Invest Toronto will be a member of the GTMA, and as a first step, the two organizations have co-developed an agreement which outlines the responsibilities and the relationship framework between the organizations. Invest Toronto will consider and evaluate effective relationships and coordination of activities, where appropriate, with regional marketing initiatives, including the GTMA and the TRRA, in the ongoing development of its strategic and business plans.

D. Build Toronto Protocols and City Objectives

The Shareholder Direction contains numerous requirements for Build Toronto.

Section 2.2 sets out the City's objectives to use its lands to enhance Toronto's economic competitiveness by attracting new commercial development that creates desirable jobs and to improve the liveability of Toronto by rejuvenating neighbourhoods and providing infrastructure

and amenities. Build Toronto's role within that objective is to operate within a business environment to further these City interests by developing City properties provided by the City. In the course of this business activity, it is expected that Build Toronto will also provide a reasonable financial return to the City in a number of ways.

Section 2.3 sets out the specific mandate of Build Toronto to develop and facilitate private commercial development of lands in its care, to work with the City and private investors and other partners to maximize the economic development potential of lands, and to advise the City on the potential of its lands for commercial development.

Build Toronto will have the authorities and operating independence to permit it to effectively engage the private sector in its development projects. Section 2.5 of the Shareholder Direction outlines a number of operating principles that highlight City requirements. First and foremost, Build Toronto shall conduct its business in a socially responsible manner that respects the public nature of its shareholder and the importance of the City's accountability to the general public. Since Build Toronto is required to hold public meetings, the public will be kept informed of the activities of Build Toronto on an on-going basis. When development projects come to the City under the planning approval regime, the same requirements for public meetings will apply to Build Toronto as any other developer.

The operating principles also require that Build Toronto develop protocols for community involvement as appropriate and maintain standards for architecture, design and public open space.

E. Build Toronto and Affordable Housing

The Principles of a Real Estate Strategy being considered by Council at its meeting in May 2009 outlines the process by which the City will communicate with Build Toronto regarding the requirements for affordable housing on the lands that are transferred from the City. The Deputy City Manager, Cluster A, will have the authority to negotiate with Build Toronto the number of affordable housing units that may vary by specific property depending on the potential for housing and source of funding. It is most appropriate for the DCM to report to the Affordable Housing Committee, outlining the agreed upon number of affordable housing units to be constructed on Build Toronto lands. The City is further informed of Build Toronto's plans in this area because it must obtain the same planning approvals from the City as private developers. In addition, Build Toronto is required to present to the City on an annual basis its Business Plan, which will include among other things its affordable housing objectives, to act in accordance with that Business Plan, and to report results in its annual report to the City.

F. Lobbyist Registration Exemption

The *City of Toronto Act, 2006* mandates the City to have a lobbyist registry. Lobbyists, as defined in the Municipal Code Chapter 140, are required to register themselves officially with the City's Lobbyist Registrar and conduct activities in accordance with the requirements set out in Municipal Code Chapter 140. Some people are exempt from the need to register when acting in their official capacity. For example, non-profit organizations are exempt. Corporations that are

wholly or partially owned by the City such as Toronto Hydro, Enwave, Toronto Community Housing Corporation and TEDCO are specifically listed in Chapter 140 as exempt. As new corporations, Build Toronto and Invest Toronto should be added to the list of exempt organizations similar to other corporations that are owned by the City.

Toronto City Council adopted Municipal Code Chapter 140, Lobbying, at its meeting on February 5, 6, 7, and 8, 2007, and brought Chapter 140 into force on February 11, 2008 (Council Decision http://www.toronto.ca/lobbying/pdf/council_2007-01-15-ex02_item4-cc.pdf and By-law 150-2007 <http://www.toronto.ca/legdocs/bylaws/2007/law0150.pdf>)

Council amended Chapter 140 at its meeting on January 29 and 30, 2008 (http://www.toronto.ca/lobbying/pdf/council_2008-01-29-cc16.3.pdf), again at its meeting of July 15, 16 and 17, 2008 (<http://www.toronto.ca/legdocs/bylaws/2008/law1129.pdf> & <http://www.toronto.ca/legdocs/bylaws/2008/law0852.pdf>) and again at its meeting of December 1, 2 and 3, 2008 (<http://www.toronto.ca/legdocs/bylaws/2008/law1302.pdf>).

G. TEDCO Structure

The October 2008 report approved by Council recommended that all TEDCO lands outside of the central waterfront and the Port Lands be transferred to Build Toronto and this is being done now. However, the report explained that TEDCO lands in the waterfront area would continue to be held by the on-going transitional corporation (TEDCO), pending development by Waterfront Toronto. Several parcels of this land are leased for long terms and cannot easily or economically be developed. The lands in the west Port Lands are in the first phase of development and should continue to be held by the transitional corporation until needed by Waterfront Toronto. It should be noted that all areas of the Port Lands north of the ship channel require flood protection prior to any further permanent development occurring. This is to be undertaken through the rerouting of the Don River and is Waterfront Toronto's first priority in this area, to be implemented over the next ten years. There are also large tracts of lands south of the ship channel that have potential for development, but they are un-serviced, have limited transit and transportation access, and have geo-technical and other soil management issues that must be addressed prior to development proceeding.

The October report also went on to explain:

“In order to isolate environmental liability risk and to avoid any unnecessary taxes, it is anticipated that these lands remain within a scaled-down transitional corporation [TEDCO] until management of these lands is assumed by Waterfront Toronto....it is suggested that a new board, comprised of City staff, be appointed as a care-taking board.”

Now that the Build Toronto Board, CEO, and COO are all in place and the City and TEDCO lands are to be transferred to Build Toronto, TEDCO's role can be scaled back to a leasing operation with the supporting environmental monitoring and reporting and property management functions. It will own only lands that have no potential for development in the near future and lands that Waterfront Toronto will need. It is anticipated that both the Corus and Filmport

properties will be transferred by TEDCO to Build Toronto once the appropriate organizational structures are put in place.

It is important that Build Toronto maintain its initial focus on development of lands rather than be hampered by a leasing operation of lands that are idle. In addition, it is important that the TEDCO lands that are largely contaminated do not put at risk the lands that the City is transferring or turning over to Build Toronto. Isolating this risk in a continuing transitional corporation is a method of mitigating that risk.

In order to recognize this reduced role, it is recommended that TEDCO be re-branded to reflect its role as a Port Lands leasing company. It will not be necessary to legally change the name of the company and it may take some time for a new operating name to be implemented. As suggested in the October report, it is also recommended that the on-going Board of Directors be changed to 4 members consisting of City staff. This care-taking board will oversee the leasing operation and ensure that Waterfront Toronto's needs are met with respect to lands in TEDCO's ownership.

SUMMARY

This report has been developed in consultation with: the Deputy City Manager and Chief Financial Officer; the Chief Corporate Officer; City divisions (Economic Development Culture and Tourism, Legal, Facilities & Real Estate, Waterfront Secretariat); and the three corporations (TEDCO, Build Toronto and Invest Toronto).

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SIGNATURE

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ATTACHMENTS

Appendix A – Build Toronto Shareholder Direction
Appendix B – Invest Toronto Shareholder Direction