

Authority to Negotiate and Enter Into Donation and License Agreements for a New Waterfront Public Art Trail

Date: June 13, 2022

To: Economic and Community Development Committee

From: Interim General Manager, Economic Development and Culture, and General Manager, Parks, Forestry and Recreation

Wards: Ward 14 - Toronto-Danforth

SUMMARY

The Pierre Lassonde Family Foundation has approached the City of Toronto and Waterfront Toronto with a proposal to make a transformative philanthropic investment that will create a new landmark on Toronto's waterfront. Valued at up to \$25 million, this proposed donation represents the largest gift offered to the City since the development of The Bentway. The Foundation's proposal includes:

- **Commissioning two major permanent public art works** through an invitational competition open to internationally-recognized Canadian and global artists, with a budget of \$10 million; and
- **Establishing a new waterfront public art trail spanning three future City parks** along the new mouth of the Don River in the Port Lands, showcasing additional temporary and permanent works by local, national and international artists.

With the two new permanent art works as its centrepiece, the art trail, envisioned as part of the revitalization of the Port Lands, will serve as a free, accessible outdoor museum for visitors and residents. The Foundation has proposed to establish a new non-profit charitable organization - to be known as the "Lassonde Art Trail" - to commission the two permanent art works and develop, curate and manage the art trail, and will fund the organization's operations with an investment of up to \$15 million, with a target to raise an additional \$30 million to sustain it over the long term.

This report seeks authority from City Council to negotiate and enter into agreements to accept the public artwork donations in the coming months. This will include an agreement to accept the donation of the two permanent public art works, in accordance

with the terms of the Public Art and Monument Donations Policy. In addition, staff will negotiate a renewable license agreement with the Lassonde Art Trail to manage the art trail in future City-owned parks in partnership with the City. Each of the agreements will set out roles and responsibilities for costs and site maintenance, while also affirming shared priorities between the City and the donor, including community use of the space for art, recreation and events.

RECOMMENDATIONS

The Interim General Manager, Economic Development and Culture, and the General Manager, Parks, Forestry and Recreation, recommend that:

1. City Council authorize the General Manager, Economic Development and Culture, in consultation with the General Manager, Parks, Forestry and Recreation and Chief Executive Officer, Waterfront Toronto, to negotiate and execute on behalf of the City an agreement with the non-profit charitable organization of the Pierre Lassonde Family Foundation (known as of the date of this report as "Lassonde Art Trail") to accept the donation of two permanent public art works, consistent with the terms of the Public Art and Monuments Donation Policy and on terms and conditions satisfactory to the General Managers and in a form acceptable to the City Solicitor.
2. City Council authorize the General Manager, Parks Forestry and Recreation, in consultation with the General Manager, Economic Development and Culture and Chief Executive Officer, Waterfront Toronto, to negotiate and execute on behalf of the City a long-term renewable operating license agreement with the non-profit charitable organization of the Pierre Lassonde Family Foundation (known as of the date of this report as "Lassonde Art Trail") to manage the public art trail in future City parks in the Port Lands Flood Protection Area in collaboration with the City on terms and conditions satisfactory to General Managers and in a form acceptable to the City Solicitor.
3. City Council direct the General Manager, Economic Development and Culture, and the General Manager, Parks, Forestry and Recreation, to report to the Economic and Community Development Committee in 2023 with an update on the terms of the donation agreement and operating license agreement for the art trail.

FINANCIAL IMPACT

As per the terms of the Public Art and Monuments Donation Policy, the donor will be responsible for all costs related to the commission, design, construction and installation of the two permanent art works. Once the installation of the art works is complete, the City will assume responsibility for the long-term maintenance of the pieces. To account for ongoing state of good repair of the donated art works, the donor will provide the City with a payment representing a minimum of 10% of the art works' construction budget to be held in the City's Public Art Reserve (XQ4002), managed by Economic Development and Culture. There may be future year financial impacts for capital funding associated with conservation and restoration work, which will be included as part of the annual

budget process for Economic Development and Culture's 10-year Capital Budget and Plan as applicable.

Infrastructure for the art trail is being built by Waterfront Toronto in three future City parks as part of the Port Lands Flood Protection project. Responsibility for costs related to the ongoing maintenance of the art trail will be negotiated with the donor as part of the operating license agreement. Given that the trail will operate within pre-planned City parks, it is anticipated that Parks, Forestry and Recreation will be responsible for parkland maintenance, while the Lassonde Art Trail will be responsible for all costs associated with temporary art works and programming in the space. Annual operating impact related to maintenance is yet to be determined and will be addressed as part of the future year budget processes for City Council consideration.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information presented in the Financial Impact Section.

DECISION HISTORY

In 2017, City Council adopted the Port Lands Planning Framework, including the Villiers Island Precinct Plan. The Villiers Island Precinct Plan outlined a public art strategy that expressed a vision to build an enduring and meaningful relationship between Torontonians and the new mouth of the Don River through public art.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG24.6>

City Council also adopted the Public Art and Monument Donation Policy in 2017. This policy sets out terms and conditions for accepting donations of public art works from third parties.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX21.5>

City Council adopted the Toronto Public Art Strategy (2020-2030) in December 2019. The Strategy included 21 recommendations to advance a vision of "creativity and community - everywhere".

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EX11.5>

COMMENTS

A Vision for a Waterfront Art Trail

As proposed by Waterfront Toronto, with input from City staff, the new art trail will weave its way throughout the parks on the north and south banks of the new mouth of the Don River, creating an unprecedented flexible platform for both temporary and permanent outdoor art. The open-air route will create multiple opportunities for visitors and residents to discover and engage with exciting contemporary works by local, national, and international artists. Artworks will be sited in prominent locations across the riverside parks, connecting waterways and their shorelines to promenades and bridges, parks and plazas.

The art trail will:

- Celebrate the site's unique multi-layered histories and tell the story of the water
- Reflect the diversity of Toronto's vibrant cultural life and communities
- Celebrate Indigenous presence on Toronto's waterfront through public art
- Highlight environmentalism, sustainability, and climate change as critical issues of our time
- Showcase new and emerging practices in contemporary art
- Support many of the key actions of the Toronto Public Art Strategy (2020-2030), adopted by Council in 2019

Infrastructure (including utilities and servicing) for temporary art will be placed along the main paths of three future parks: River Valley Park, Promontory Park North and Promontory Park South, and be adjacent to a planned major playground site. These parks are being planned and built by Waterfront Toronto and will be operated by Parks, Forestry and Recreation. An artist's impression of the proposed art trail is included in Attachment 1 to this report.

Understanding Project Components

1) Donation of Two Destination Art Works

At the heart of the art trail will be two major new permanent art works that will be donated to the City upon completion. With a total budget of \$10 million, this represents the largest donation of public art ever received by the City of Toronto, and is an opportunity to elevate the City's already significant collection of public art works with two new "destination" pieces. Destination art works serve as a landmark and gathering space for communities, and in cities around the world, have emerged as prominent tourist attractions. Identifying opportunities to commission new destination art works for Toronto is one of the recommendations of the Council-approved Toronto Public Art Strategy (2020-30) (Recommendation #2.8).

The donor has proposed commissioning the two works - one by a Canadian artist, and one by an international artist - through an invitational competition to be managed by the Lassonde Art Trail. This process involves inviting selected artists to present proposals for consideration by a jury, and is used as a best practice by public art curators to attract high-profile global artists, who are unlikely to participate in open calls. While the City of Toronto and Waterfront Toronto most commonly use open calls to award public art commissions, the Public Art Strategy highlights the importance of using a wider variety of commissioning strategies to attract a broader range of artists, including invitational calls where appropriate (Recommendation #1.6). The jury will be comprised of diverse art professionals and advisors, with representation from the City and Waterfront Toronto.

With direction from Council, the City will negotiate and enter into a donation agreement with the Lassonde Art Trail consistent with the terms of the Public Art and Monuments

Donations Policy. The agreement will set out roles and responsibilities for the City and the donor for the various aspects of the project. Key terms are expected to include:

- **Responsibility for costs:** The donor is responsible for all costs associated with the donation of a work of public art, including commissioning, design, public consultation, production, siting, installation and a maintenance fund. Approval of a donation is conditional on the donor providing the City with proof of full funding of the project.
- **Maintenance plan and funding:** The donor will submit a maintenance manual for review and approval by the City. The maintenance plan must provide projected maintenance costs for a minimum of 20 years. A minimum of 10% of the artwork construction budget will be provided by the donor to the City to be placed in the Public Art Reserve Fund managed by Economic Development and Culture for the long-term maintenance of the art work.
- **Technical review of proposed art works:** Staff from the City and Waterfront Toronto, including professionally-trained art conservators and staff with expertise in public realm design and maintenance, must review proposals to ensure that the art works will meet safety standards, and can be effectively maintained in Toronto's year-round climate. The Toronto Region Conservation Authority may also be engaged to provide comments on the siting of the works if required. Staff typically provide feedback to artists during the concept design phase to allow them to amend their proposals to meet technical and safety requirements.
- **Aesthetic criteria:** Public art staff conduct a professional assessment of the quality of the work, based on a detailed written proposal, drawing and/or maquette, or photographs, and review the suitability of the theme of the work to a public venue and appropriateness of the artwork to the site.
- **Robust public engagement:** A public consultation process must be completed to provide the public with an opportunity to comment on the design and theme of shortlisted proposals. The donor assumes the cost of public engagement. This project will also be informed by previous public consultation and stakeholder engagement completed by Waterfront Toronto for the upcoming Villiers Island and Keating West Public Art Master Plan, which gathered input on the themes, vision and location of public art in the precincts, including the art trail.

2) Establishing a Public Art Trail

The second component of the donation is the development of a public art trail in the new riverside parks. The concept of the art trail was envisioned as part of the revitalization of the Port Lands and is included as part Waterfront Toronto's strategic plan. Infrastructure for the art trail is being constructed along the main paths of three future City parks in the Villiers Island area, which are currently under development by Waterfront Toronto in collaboration with Parks, Forestry and Recreation, and is fully budgeted for as part of the Port Lands Flood Protection project. The donor's generous contribution is key to bringing this ambitious project to life with programming and activations to engage residents and visitors.

As a first step, the donor proposes to establish a non-profit charitable organization - to be known as the "Lassonde Art Trail" - to commission and manage a rotating program of exhibitions for the trail. Both the City and Waterfront Toronto will have permanent representation on its board of directors. The donor is committing \$15 million to operate the Lassonde Art Trail, the bulk of which is offered as a challenge gift to encourage other donors to match contributions on a 2:1 ratio. Their goal is to raise a further \$30 million to sustain its long-term operations, for a total operating fund of \$45 million. While this is an ambitious target, the City is confident that the donor can deliver based on the Lassonde family's track record of raising funds for major projects, including chairing the \$110 million revitalization campaign for the Musée national des beaux-arts du Québec, and its considerable reach and reputation within the philanthropic community. If the campaign is successful, it will provide a sustainable operating model to allow the art trail to achieve its vision and mandate, without the need for additional operating funding from the City.

With authority from City Council, the City and Waterfront Toronto will work closely with the Lassonde Art Trail to define the details of an operating relationship, with the intention of entering into a long-term renewable license agreement to operate within new riverside City parks hosting the art trail. Parks, Forestry and Recreation and Waterfront Toronto have collaborated to explore operating models for other parkland in the area that could, for example, engage non-profit organizations to deliver additional services to optimize the visitor experience. The Lassonde Art Trail would participate in that structure and follow any framework expected of other entities in waterfront parks.

The agreement will be designed to uphold shared priorities between the City and the donor, including a commitment to community use of the art trail space. Consistent with the practices of leading arts presenters, the Lassonde Art Trail will develop a model to ensure local community and arts organizations have the opportunity to deliver programming and events.

The donor expects that the trail could be operational by 2025. To achieve this timeline, it is important for the donor to be confident that it can begin making investments to establish and incorporate the Lassonde Art Trail as soon as possible, and as such Council authorization to negotiate and enter into agreements is required this spring. Staff will report back to the Economic and Community Development Committee in 2023 with an update on the terms of the operating arrangement and status of the project.

Significance of Donation

The Pierre Lassonde Family Foundation is a registered charity with a strong track record of making philanthropic investments in support of three key pillars: art, community and education. Its namesake, Pierre Lassonde, has a long history of supporting the arts, including serving as Chair of the Canada Council for the Arts. Notable gifts in Toronto made by the Foundation include being the founding donor for the Lassonde Institute of Mining at the University of Toronto and \$25 million to York University to establish the Lassonde School of Engineering in 2011.

This donation represents an extraordinary gift to the residents of Toronto. Only once before has the City received a gift on this scale, when the Wilmot and Judy Matthews Foundation provided a donation of up to \$25 million to develop the new public space under the Gardiner Expressway now known as The Bentway. Accepting this new gift is an opportunity to build on this legacy of philanthropic investment in City-building initiatives, and speaks to the City's ability to successfully partner with donors to deliver visionary projects for the benefit of all Torontonians. It is hoped that this gift will inspire other potential donors to contribute to transformative projects in the future.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1 - Artist's Impressions of Proposed Art Trail