

## **Walks and Gardens Trust – Commemoration of the Trust at Union Station and Comments on Repeal of Trust Legislation**

<b>Date:</b>	August 29, 2012
<b>To:</b>	City Council
<b>From:</b>	Chief Corporate Officer and City Solicitor
<b>Wards:</b>	Toronto Centre – Rosedale (Ward 28)
<b>Reference Number:</b>	P:2012\Internal Services\Fac\Cc12015Fac- (AFS 15629)

### **SUMMARY**

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The purpose of this report is to report directly to Council as requested on a framework to create and maintain an interpretative installation on the Walks and Gardens Trust in perpetuity in a relevant, high-traffic area inside Union Station. The report also comments on the letter dated March 5, 2012 from William H. Roberts respecting the repeal of the legislation establishing the Walks and Gardens Trust and dissolution of the Trust.

### **RECOMMENDATIONS**

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#### **The Chief Corporate Officer recommends that:**

1. Facilities Management, in consultation with Economic Development and Culture, hold an open public art competition to commemorate the Walks and Gardens Trust at Union Station (the "Commemoration") and reserve the area below the Front Street Pedestrian Bridge for the Commemoration.
2. The Chief Corporate Officer be authorized to enter into an agreement with the selected artist on terms and conditions satisfactory to the Chief Corporate Officer and City Solicitor.
3. The 2012 Approved Capital Budget and the 2013 Capital Plan for Union Station be amended by adding a new sub-project and increasing gross expenditures by \$0.250 million gross; \$0 debt, with cash flows of \$0.010 million in 2012 and

\$0.240 million in 2013, funded from the Union Station Reserve Fund (XR2501) for the installation of the commemoration of the Walks and Garden Trust.

## **Financial Impact**

Funds in the amount of \$0.250 million for the design, fabrication and installation of the public art as well as associated public art competition expenses are available in the Union Station Reserve Fund (XR2501). It is recommended that the 2012 Approved Capital Budget and 2013 Capital Plan for Union Station be increased by \$0.250 million gross, \$0 debt, funded from the Union Station Reserve Fund.

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

## **DECISION HISTORY**

At its meeting of March 6, 7 and 8, 2012, City Council had before it the report from the City Solicitor and the Chief Corporate Officer titled "The Walks and Gardens Trust – Repeal of the Legislation". City Council deferred consideration of Item GM11.6 to the May 8 and 9, 2012 meeting of City Council and requested the Chief Corporate Officer and the City Solicitor to report to City Council on a framework to create and maintain an interpretative installation on the Walks and Gardens in perpetuity in a relevant, high-traffic area inside Union Station. City Council also referred the letter (March 5, 2012) from William H. Roberts outlining the legal issues respecting the dissolution of the Walks and Gardens Trust and the process for the repeal of the legislation to the City Solicitor for consideration and comment to Council as part of the requested report.

At its meeting of May 8 and 9, 2012 City Council further deferred consideration of the report to permit staff time to develop a framework for a commemorative installation of the Walks and Garden Trust at Union Station.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.GM11.6>

## **ISSUE BACKGROUND**

Pursuant to GM11.6 considered at City Council's meeting of March 6, 7 and 8, 2012, staff recommended that the City request that the Provincial Government repeal the legislation establishing the Walks and Gardens Trust, dissolve the Trust, relieve the City of any past and ongoing obligations in respect of the Trust, and clear the Trust and any other conditions or restrictions contained in the original Crown Patent from the title to the lands affected by the Trust, including the Union Station Lands.

The Trust covers certain land, currently partially occupied by Union Station. Over the years citizens have expressed an interest in recognizing the Trust in some way.

In May 2012, a meeting was held with the Ward Councillor and representatives of the community working group to review options for the commemoration. It was agreed that, if a suitable location and commemoration could be achieved, both the Ward Councillor and community representatives would not object to the City taking the necessary steps to have the Trust dissolved and the City relieved of any past or ongoing obligations in respect of the Trust.

At its meeting of May 8 and 8, 2012, Council further deferred consideration of the report to its meeting of October 2 and 3, 2012 in order to allow staff time to develop a framework for the commemoration and report back to Council on such framework.

## **COMMENTS**

### Framework for Commemorative Installation of the Walks and Gardens Trust

The location that has been selected is the north portion of the pedestrian walkway under the Front Street Pedestrian Bridge, as shown in Attachment A. The north wall, floor, ceiling and columns can be used for the installation. This area connects the east and west moat which is a covered, climatically controlled walkway linking the station to the North West PATH and TTC entrance. The area selected for the commemoration is relevant, as a portion of the original trust lands is located here. During the AM and PM peaks, the pedestrian volumes are anticipated to be 8,000 daily. It should also be noted that the head lessee is proposing a café for the south side of the area creating a destination during non-peak times.

Parks Canada holds the Heritage Easement Agreement that governs change at the station. One of the restrictions placed on the approval of the Union Station revitalization was that no advertising, signage or other non-heritage items be placed in locations that can be seen from Front Street. As the bridge has been reconstructed using new material and the area selected for the commemoration cannot be viewed from Front Street there are no heritage restrictions.

In order to provide an innovative commemoration of the Walks and Gardens Trust, it is recommended that a public art competition be undertaken by Facilities Management working with Culture Services as advisors with a total value of \$250K for the design, fabrication and installation of the commemoration. As part of this funding a Public Art Consultant, at a cost not to exceed \$10,000, is required to manage the competition process and oversee the selection process. The competition will be a widely publicized call for artists to make submissions. A selection committee comprised of a wide variety of professionals including artists, architects, landscape architects, urban designers, the revitalization team and the head lessee will select 5 artists from the submitted entries to prepare detailed proposals of their submission. The 5 selected to prepare a detailed design will be paid \$2,000 each. The selection panel will then select one submission from the 5 short listed submissions for the permanent installation. The design, fabrication and installation of the selected entry will not exceed \$200,000 with a contingency of \$30,000 for structural, mechanical or electrical review and or modifications to provide any

necessary infrastructure to support the installation of the commemoration. It is anticipated that the installation of the commemoration will take place prior to the opening of the east-west Front Street Moat for pedestrian use.

It is recommended that the total cost of the commemoration of the Walks and Gardens Trust, including the Public Art consultant, the competitive process and all design, fabrication and installation costs, not exceed \$250,000, to be funded from Reserve Fund XR2501.

#### Legal Comments on Letter from William H. Roberts

Council requested that the City Solicitor review and comment on the letter dated March 5, 2012 from William H. Roberts, addressed to Susan Ratcliffe, President, Architectural Conservancy of Ontario Inc respecting the GM11.6 staff report.

The letter states that the writer does not concur with staff's position that there has been no loss to the Trust simply because far more monies have been spent for City parks purposes than would ever have been generated in revenue from the Trust lands. The writer also states that in his view the Trust has not ceased to serve any purpose, as the intent of the Trust was to ensure that the proceeds of sale or lease of Trust land were used for City park purposes.

As indicated in the GM11.6 staff report, it is staff's position that the purposes of the Trust have been more than fulfilled since at any given point in time, the City has spent approximately ten times more on park lands than any revenue which may have been derived from Trust Lands. The City also continues today to spend far more monies for parks purposes than is generated from revenue from Union Station, the major remaining piece of City-owned income generating land still affected by the Trust. As well, as the staff report states, the City now has parks-related legislative tools at its disposal which did not exist when the Trust was established, thus rendering the need for the Trust obsolete for many years now.

The author of the letter is of the opinion that the City should give notice to the beneficiaries of the Trust, being the citizens of Toronto, should the City proceed to seek the dissolution of the Trust. Staff is unaware of any legal requirement to give such notice. In any event, it is noted that this matter has now been before both Committee and City Council several times, and staff reports in respect of the Walks and Gardens Trust are public documents available for all members of the public for review and public deputations. The public have therefore been made well aware of the City's intentions in respect of the Trust.

As well, Mr. Roberts is of the view that the Walks and Gardens Working Group in particular should be notified and provided with an opportunity to respond. In response, staff notes that there were deputations from citizen members of the Walks and Gardens Working Group at Government Management Committee and they have also been involved in discussions respecting the commemorative installation.

The letter also states that the City has an ongoing legal obligation to account for the Trust monies and should account to the best of its ability for the Trust revenues. As clearly set out in the GM11.6 staff report, staff agrees that the City has an obligation to account to the Trust. However, as is discussed in that report, a separate accounting of the Trust monies ceased long ago and it is now impossible to provide an accurate accounting since there are no records in existence to do so. However, the Walks and Gardens Working Group, as part of its work, has attempted to recreate an accounting using the information available. The results of this effort are reported in the Walks and Gardens Working Group report attached to, and discussed, in the GM11.6 report.

Finally, the letter suggests that the City should advise the Public Guardian and Trustee (the "PGT") of its intention to dissolve the Trust. As indicated in the GM11.6 staff report, staff have advised that it is anticipated that there will be a need for discussions with the PGT and staff are fully prepared to undertake these, if and when required.

### **Conclusions:**

This report recommends that a public art competition be held in order to create and maintain an interpretive installation of the Walks and Gardens Trust in a relevant high traffic area at Union Station. The area as noted under the Front Street Pedestrian Bridge is recommended to be reserved for this installation. It is intended that the selected public art be installed prior to the opening of the Front Street moat for public use. The installation of the interpretation of the Walks and Gardens Trust will provide Torontonians and visitors to the city with new insight into the historic shore line and the development of the waterfront.

The letter from William H. Roberts does not raise any new legal issues that have not already been addressed by staff in its previous report or that, in staff's opinion, would require further consideration,

### **CONTACT**

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### **SIGNATURE**

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Chuck Donohue, P. Eng.  
Acting Chief Corporate Officer

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Anna Kinastowski  
City Solicitor