

Update on Toronto Community Housing Corporation 2016 Infrastructure Ontario Mortgage Refinancing

Date: April 20, 2017

To: City Council

From: Deputy City Manager & Chief Financial Officer

Wards: All

SUMMARY

Pursuant to Executive Committee Item # EX20.15, City Council on December 13, 14 and 15, 2016 adopted the proposed terms negotiated by Toronto Community Housing Corporation with Ontario Infrastructure and Lands Corporation regarding the refinancing of a tranche of mortgages for 32 properties for which mortgage renewals were required in 2016. Of these 32 properties, title issues prevent Toronto Community Housing Corporation from registering a mortgage on a property municipally known as 460 Jarvis Street, Toronto. To address this issue, Ontario Infrastructure and Lands Corporation proposed that Toronto Community Housing Corporation and the City provide certain negative covenants to ensure that 460 Jarvis Street and 111 Wellesley Street East, Toronto remains free of any mortgage, charge, or any other encumbrance of any kind for so long as any of Toronto Community Housing Corporation's obligations under the Financing Agreement (defined below) remain outstanding and 460 Jarvis Street remains a property secured pursuant to Financing Agreement.

RECOMMENDATIONS

The Deputy City Manager and Chief Financial Officer recommends that:

1. City Council authorize the City to enter into a triparty agreement with Ontario Infrastructure and Lands Corporation ("IO") and Toronto Community Housing Corporation ("TCHC"), to enable TCHC to refinance 460 Jarvis Street, Toronto (the "460 Jarvis Lands") with IO, without registering a first ranking charge/mortgage on title, substantially on the terms and conditions set out in Appendix "A", together with such other or amended terms and conditions deemed appropriate by the Deputy City Manager & Chief Financial Officer ("DCM/CFO"), and in a form satisfactory to the City Solicitor, and that the DCM/CFO be authorized to execute the triparty agreement.

FINANCIAL IMPACT

These recommendations will have no additional financial impact other than as described in EX20.15 adopted by Council on December 13, 14 and 15, 2016.

DECISION HISTORY

Pursuant to Executive Committee Item # EX20.15, City Council on December 13, 14 and 15, 2016 adopted the proposed terms negotiated by TCHC with IO for the refinancing of a tranche of mortgages for 32 properties for which mortgage renewals were required in 2016. This refinancing will generate \$310million in total financing, of which approximately \$93.6 million will be used to pay out existing mortgages on the 32 properties and the balance will be available to address capital needs.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX20.15>

COMMENTS

Pursuant to a financing agreement made as of February 10, 2017 as amended (the “Financing Agreement”) between IO and TCHC, IO agreed to make certain credit facilities available to TCHC to finance the repayment of certain outstanding loans on 32 specific properties (the “Financed Properties”) and to finance repair and maintenance work on such Financed Properties and to provide for equity withdrawals for use in residential rehabilitation projects.

As authorized by Council, the City as the sole shareholder of TCHC has provided IO with a guarantee dated February 14, 2017 of all of the principal and interest obligations of TCHC to IO under the Financing Agreement.

The 460 Jarvis Lands is one of the Financed Properties comprising of part of PIN 21106-0168 (LT). The remainder to PIN 21106-0168 (LT) is the lands and premises municipally known as 111 Wellesley Street East, Toronto (the “111 Wellesley Lands”).

The 460 Jarvis Lands and the 111 Wellesley Lands together comprise a single building. TCHC is the registered and beneficial owner of the 460 Jarvis Lands; and is the registered owner of the 111 Wellesley Lands and holds legal title to the 111 Wellesley Lands as bare trustee for the City pursuant to an unregistered agreement made as of July 30, 1993 between The Metropolitan Toronto Housing Company Limited (as predecessor to TCHC) and The Municipality of Metropolitan Toronto (as predecessor to the City) (the “Trust Agreement”).

Since the 460 Jarvis Lands and the 111 Wellesley Lands comprise a single building under separate beneficial ownership, The Metropolitan Toronto Housing Company (as predecessor to TCHC) and The Municipality of Metropolitan Toronto (as predecessor to the City) entered into an unregistered indenture made as of July 30, 1993 addressing

the parties rights and obligations in respect to the mutual use, maintenance, repair and replacement of the building, including certain "Shared Facilities" and the sharing of costs related thereto, amongst other matters (the "Shared Facilities Agreement").

Pursuant to the Trust Agreement, TCHC may not transfer the legal title in all or any part of the 111 Wellesley Lands or mortgage, charge or encumber all or any part of the 111 Wellesley Lands in any manner whatsoever without the City's direction and authorization. However, the 460 Jarvis Lands form part of the Financed Properties; and pursuant to the Financing Agreement, TCHC agreed to provide IO with a first ranking registered charge/mortgage over the 460 Jarvis Lands. TCHC cannot grant a first ranking registered charge/mortgage over the 460 Jarvis Lands in favour of IO without also encumbering the 111 Wellesley Lands and City Staff do not recommend that the City provide a direction and authorization pursuant to the Trust Agreement to TCHC to encumber the 111 Wellesley Lands in connection with any registered encumbrance of the 460 Jarvis Lands. The City has long maintained a policy of keeping its lands free of registered mortgages.

In order to enable TCHC to refinance the 460 Jarvis Lands in accordance with its obligations under the Financing Agreement, and without registering a first ranking charge/mortgage on title to the 460 Jarvis Lands, IO has agreed that for so long as: (i) TCHC remains the registered owner of the 111 Wellesley Lands as bare trustee for the City pursuant to the Trust Agreement; and (ii) a severance of the title to the 460 Jarvis Lands and the 111 Wellesley Lands has not occurred, with the necessary mutual rights and easements in favour of the 460 Jarvis Lands to continue ownership and operation as a stand-alone property, TCHC is not required to deliver a first ranking registered charge/mortgage over the 460 Jarvis Lands, on the condition that the 460 Jarvis Lands and the 111 Wellesley Lands remain free of any mortgage, charge, or any other encumbrance of any kind for so long as any of TCHC's obligations under the Financing Agreement remain outstanding and the 460 Jarvis Lands remains a property secured pursuant to the Financing Agreement.

While there will be no registered charge/mortgage over the 460 Jarvis Lands, in order to protect IO unregistered security in the 460 Jarvis Lands, IO requires the City and TCHC to enter into an agreement substantially upon the terms and conditions set out in Appendix "A".

In the event that IO enforces its security under the Financing Agreement, notwithstanding that there is no registered charge/mortgage over the 460 Jarvis Lands, IO can enforce its security over the 460 Jarvis Lands, and the City would need to address the mutual rights and obligations in respect to the mutual use, maintenance, repair and replacement of the buildings comprising of 460 Jarvis Lands and the 111 Wellesley Lands, including certain "Shared Facilities" and the sharing of costs related thereto, as well as any necessary rights and easements for access, utilities and support, with IO and/or the purchaser of IO's interest.

Until TCHC's obligations under the Financing Agreement are fulfilled and the loan repaid, the City will be restricted from dealing with the 111 Wellesley Lands and 460 Jarvis Lands as set out in Appendix "A".

CONTACT

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SIGNATURE

Roberto Rossini
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ATTACHMENTS

Appendix "A" – Major Terms and Conditions

APPENDIX "A" - MAJOR TERMS AND CONDITIONS

Mortgaged Lands (460 Jarvis Lands):
460 Jarvis Street, Toronto
Part of PIN 21106-0168(LT)

Lender:
Ontario Infrastructure and Lands Corporation

Borrower:
Toronto Community Housing Corporation

111 Wellesley Lands:
111 Wellesley Street East, Toronto
Part of PIN 21106-0168(LT), being Part of Park Lot 6, Concession 1 from the Bay, designated as Parts 1, 3, 4, 5, 7, 10 to 13 inclusive, 19 to 39 inclusive, 42, 46 and 48 to 67 inclusive on Plan 63R-4917, City of Toronto

Beneficial Owner:
City of Toronto

Bare Trustee:
Toronto Community Housing Corporation

For so long as TCHC's obligations under the Financing Agreement remain outstanding and the 460 Jarvis Lands remains a property secured pursuant to the Financing Agreement, the following restrictions shall apply:

(i) Restrictions on charging lands: The City agrees not to mortgage, charge or encumber in any manner the 460 Jarvis Lands and the 111 Wellesley Lands or any part thereof, or the revenues therefrom;

(ii) Restrictions on transferring lands: The City agrees not to transfer the 460 Jarvis Lands and/or 111 Wellesley Lands or any part thereof; and

(iii) Restrictions on amendments to the Trust Agreement and Shared Facilities Agreement: The City agrees not to terminate or materially amend or modify the Trust Agreement or the Shared Facilities Agreement.