



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### Extension of the Service Agreement for the Collection of Municipal Land Transfer Tax

**Date:** June 18, 2018

**To:** Government Management Committee

**From:** Interim Chief Financial Officer

**Wards:** All

#### **REASON FOR CONFIDENTIAL INFORMATION**

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Confidential Attachment 1 to this report is about positions and instructions to be applied to negotiations to be carried on by or on behalf of the City of Toronto.

Confidential Attachment 2 to this report is about positions and instructions to be applied to negotiations to be carried on by the City of Toronto, and contains financial information supplied in confidence to the City of Toronto, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position of Teranet Inc.

#### **SUMMARY**

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Teranet Inc. (Teranet) is currently the City's authorized agent for the collection of the Municipal Land Transfer Tax (MLTT) using the Ontario Electronic Land Registration System under a service agreement that expires January 31, 2023.

This report recommends that the agreement be extended for a 20-year term effective February 1, 2019 with a City option to renew it for another ten (10) years, subject to a modest service fee adjustment as described in the Confidential Attachment 2.

Extending the agreement now, well in advance of the termination date, is recommended to provide long term cost predictability at rates that have declined significantly as a share of tax proceeds since introduction of the tax in 2008.

#### **RECOMMENDATIONS**

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The Interim Chief Financial Officer recommends that:

1. City Council authorize the Interim Chief Financial Officer, in consultation with the City Solicitor, to negotiate and execute an extension of the agreement with Teranet Inc. for the collection of Municipal Land Transfer Tax for a term of 20 years with City option to renew for a further ten (10) years, effective February 1, 2019 on financial terms substantially as outlined in Confidential Attachment 2 and upon such other terms as may be acceptable to the Interim Chief Financial Officer.

2. City Council direct that Confidential Attachment 1 be released upon execution of a renewed collection agreement with Teranet Inc., and Confidential Attachment 2 remain confidential, as it pertains to positions and instructions to be applied to negotiations to be carried on by or on behalf of the City of Toronto, and contains financial information which could reasonably be expected to prejudice significantly the competitive position of Teranet Enterprises Inc.

## **FINANCIAL IMPACT**

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The recommended amendment and extension of the service agreement between the City and Teranet for the collection of the Municipal Land Transfer Tax (MLTT) would ensure the continuation of the current collection platform for MLTT with modest service fee adjustment.

## **DECISION HISTORY**

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In October and November 2007 City Council considered items EX10.1, EX13.7 and EX13.7a, and approved the implementation of MLTT. It also authorized Teranet Inc. as its collection agent for MLTT in a 10-year agreement with a five-year extension option. The agreement is currently in its extension period, which expires January 31, 2023.

<https://www.toronto.ca/legdocs/mmis/2007/ex/reports/2007-06-25-ex10-cc-dit1.pdf>

<https://www.toronto.ca/legdocs/mmis/2007/ex/reports/2007-10-29-ex13-cr.pdf>

## **COMMENTS**

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In Ontario all property ownership records are registered with the provincial government. Teranet is the exclusive provider of Ontario's online property search and registration system. It developed, owns and operates the Ontario Electronic Land Registration System ("ELRS").

On December 13, 2007, the City adopted a Municipal Land Transfer Tax (MLTT) and enacted its MLTT By-Law (City of Toronto Municipal Code Chapter 760) pursuant to its authority under Part X of the *City of Toronto Act, 2006* ("COTA").

In 2008 the City entered into an agreement with Teranet with respect to the collection of MLTT through the ELRS (the "Service Agreement"). Teranet was designated as the City's agent for the collection and remittance of the MLTT, in respect of all transfers registered through the ELRS in the Toronto Land Registry Office for a term of ten (10) years effective February 1, 2008, the effective date of the City's MLTT Bylaw. The Service Agreement included an option to renew the agreement for an additional 5-year period upon the same terms, which the City exercised in 2017. The existing extension of the Service Agreement expires January 31, 2023.

The City remains bound to register all electronic transactions on the ELRS by the Province under a separate perpetual licence agreement with the Province and Teranet.

Teranet charges the City a service fee on a per transaction basis. The transaction fee for online registrations was designed to mirror the fees charged by the Province of Ontario to property buyers. Adjustments to the tax regime, such as the change to harmonize with provincial rates in 2017, can be made upon request by the City on a fee for service basis.

The City's cost for the Teranet service fees, together with other administrative costs related to collection of the MLTT, is recovered through an administration fee charged to property purchasers by the City, currently set at \$75 for each transaction with certain exemptions.

Overall the Teranet fees have been a relatively small and declining percentage of the revenue since inception (from 2.0% of the net MLTT revenue in 2008 to 0.5% in 2017). Nevertheless, the cost of fees has increased with the volume of transactions.

Currently the Teranet fees as an administration cost for MLTT compare favorably with the other City taxes. The administration cost as a percentage of the tax revenue are as follows:

- Property tax - 0.8% (related to billing costs and payment to Municipal Property Assessment Corporation for the assessment function)
- Third-Party Sign Tax (TPST) - 7% (related to Toronto Building costs)

Staff are recommending that Council authorize renewal of the collection agreement well in advance of its expiry, and have negotiated terms for renewal that are based on the original agreement, with some minor adjustment.

Staff are also recommending that the Service Agreement with Teranet be extended for a longer term, by extending the term to 20 years (i.e. 2039), with a City option to renew it for another 10-year term. The effective date of the renewal agreement will be February 1, 2019. The total potential term at 30 years is still less than the 50-year agreement with the Province of Ontario, but provides for long term cost certainty for the City for this increasingly important tax.

## **CONTACT**

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## **SIGNATURE**

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Joe Farag  
Interim Chief Financial Officer

## **ATTACHMENTS**

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Confidential Attachment 1 - Contract Negotiation Considerations — Amended Service Agreement between the City of Toronto and Teranet Inc.

Confidential Attachment 2 - Proposed Financial Terms — Amended Service Agreement between the City of Toronto and Teranet Inc.