

# #BlockSidewalk

January 23, 2020

The Executive Committee, Toronto City Council

## **Re: January 23, 2020 Executive Committee meeting on item 2020.EX12.2, Digital Infrastructure Plan - Update**

#BlockSidewalk is a resident-led group launched to ensure Toronto's waterfront is developed for the benefit of Torontonians, not Alphabet's shareholders. We have been a vocal critic of the ways in which data-driven infrastructure has been proposed for the city's waterfront and appreciate the opportunity to address the City's Executive Committee on item 2020.EX12.2.

We support the City's initiative to develop rules that govern data-driven infrastructure projects and would like to thank Toronto's Chief Technology Officer (CTO) Lawrence Eta for updating us on Toronto's Digital Infrastructure Plan. We hope that the final, Council approved Digital Infrastructure Plan will ensure that current and future data-driven projects reflect the public interest, protect our rights and lead to more just urban environments.

While the five working principles outlined in the report before the Executive Committee today are an admirable beginning, there are three suggestions we'd like to make : (1) the need for a reformed public procurement policy that addresses the question of how to govern data-driven infrastructure projects; (2) the need to evaluate major data-driven infrastructure projects already underway based on a *completed* and Council-approved Digital Infrastructure Plan; and, (3) the need to provide for minors and other residents and visitors unable to consent to data collection.

### **The need for public oversight over digital infrastructure procurement**

When Waterfront Toronto issued its Request for Proposals (RFP) to procure a vendor for its smart city development on Quayside, it did so with zero public involvement and oversight. This heavily criticized process stands in stark contrast to how Waterfront Toronto dealt with procurement for traditional physical infrastructure developments in the past. As a result, a private vendor has been able to propose digital infrastructure that could negatively impact all who live, work or simply visit Toronto's waterfront.

Simply put, Torontonians were not asked about whether digital infrastructure that mines our behavioral data was something we needed to build on our waterfront. If the public had been consulted before the RFP was drafted, Waterfront Toronto may have never enabled a private vendor to roll out plans to turn hundreds of acres of waterfront land into a sensor laden test bed. As the Canadian Civil Liberties Association (CCLA) reminds us in its lawsuit against the three levels of government, Waterfront Toronto has no jurisdiction over data governance, and by leading the development of smart city infrastructure, risks violating our charter rights.

### **Risk of opening up a major loophole**

The working principles outlined in the update report are a useful starting point for building Toronto's Digital Infrastructure Plan. They are not meant to be, nor should they be used as, actual evaluation criteria with regulatory force. They can give proponents of digital infrastructure a better sense of what the city is looking for but are no substitute for regulations. Final approval of major digital infrastructure projects like

Sidewalk Labs' Quayside proposals should not proceed before the Digital Infrastructure Plan is finished and Council approved.

Suggesting that these working principles could be sufficient to protect those who live, work or visit Toronto's waterfront from the risks associated with data collection and data use could place both Toronto residents and decision makers at risk. Could a company appeal a proposal rejected for not conforming to the principles? What would happen if the City becomes party to "Plan Implementation Agreements" with Sidewalk Labs – presumably legally binding contracts – for tech which would not conform to the City's rules? The City should not repeat Waterfront Toronto's mistakes; it should evaluate proposed digital infrastructure *after* relevant rules are in place, not before.

### **Protection of minors and those who cannot provide consent**

While the five working principles mention vulnerable populations, we would appreciate more detail on how the City of Toronto plans to protect minors and others who cannot readily consent to data collection. Will they be precluded from participating in or residing in Quayside? How can we ensure we are building communities and neighborhoods that protect people's rights to privacy – especially when consent cannot be provided? Will our kids be prevented from visiting Quayside, or any other major digital infrastructure led project in Toronto?

### **Our recommendations to the Executive Committee are as follows**

- Ensure that decisions over procurement of digital infrastructure is followed with as much or more public oversight and consultation as currently applied to traditional physical infrastructure projects;
- Ensure that large data-driven infrastructure projects already underway will be evaluated by the Council approved Digital Infrastructure Plan, not by a number of vague working principles; and,
- Ensure that those who cannot provide consent are protected from undue harm.

Data-driven infrastructure projects require strong regulatory frameworks.

Toronto's Digital Infrastructure Plan initiative has the potential to deliver a strong regulatory framework needed to govern data-driven infrastructure projects. Toronto's City Council has a chance to set this up right. We urge members of the Executive Committee to ensure that the outlined issues in our submission will be addressed in the final version of the Digital Infrastructure Plan.

#BlockSidewalk Organizing Committee