

City Council**Motion Without Notice**

MM25.22	ACTION			Ward: All
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Request to Extend the Construction Funding Agreement for Improvements to James Canning Gardens - by Councillor Kristyn Wong-Tam, seconded by Councillor Mike Layton

** Notice of this Motion has not been given. A two-thirds vote is required to waive notice.
* This Motion is subject to referral to the Executive Committee. A two-thirds vote is required to waive referral.
* This Motion has been deemed urgent by the Chair.*

Recommendations

Councillor Kristyn Wong-Tam, seconded by Councillor Mike Layton, recommends that:

1. City Council authorize the General Manager, Parks, Forestry and Recreation to extend the funding Agreement with The Clover on Yonge Incorporated to August 31, 2021 or such later date as may be approved by the General Manager, on terms satisfactory to the General Manager and in a form satisfactory to the City Solicitor.

Summary

This Motion seeks authority to extend the construction funding agreement for James Canning Gardens.

Under the Section 37 Agreement for 587 to 599 Yonge Street, 2 to 4 Dundonald Street, 7 to 9 Gloucester Street, the Developer, The Clover on Yonge Inc., was required to design and construct park improvements to James Canning Gardens. The proposed park improvements were tendered by the Developer and the value exceeded the Developer's Section 37 requirement and additional funds in the amount of \$381,000 were required for the park to be completed as designed.

At the July 23, 2018 City Council meeting, Council adopted MM44.87 to allow the City to enter into a construction funding agreement (the "Agreement") with the Developer. In addition, the 2018 Parks, Forestry and Recreation Capital Budget was amended to add \$381,000, with cash flow in 2019, fully funded by the following sources: \$233,011.58 from the Section 37 for 17 Dundonald Street (source account: XR3026-3700746) and \$147,988.42 from the Section 37 for 40 Wellesley Street East (source account: 3700720).

The park reconstruction began in late 2018, continuing throughout 2019. The contractor had originally planned to remobilize in Spring, 2020. However, before the work could be

completed, the Developer ran into financial difficulties. On March 27, 2020, a receiver-manager was appointed over all of the assets, undertakings and properties of several companies, including the Developer (the "Debtor Companies"). On April 7, 2020, the City Clerk was served with a Statement of Claim against the Developer and others that was brought by the contractor doing the park improvements on James Canning Gardens (the "Lien Action"). The Lien Action indicated that the contractor had not been paid for construction work already completed on the park. As the owner of the parklands, the lawsuit included the City as a defendant and the contractor registered a lien on title to the parklands. On June 22, 2020, proceedings began under the Companies' Creditors Arrangement Act to restructure the Debtor Companies in an effort, among other things, to preserve the viability of various development projects. As a result of the restructuring, which is still ongoing, the contractor has recently resolved its claim against the Developer, the Lien Action has been discontinued, and the lien has been removed from title. However, due to delays related to the insolvency, the park was unable to be completed before the Agreement expired on August 31, 2020.

The contractor has now remobilized in the park as of late September 2020. The extension of the Agreement is required so that park construction can be completed.

This Motion is urgent as additional funds are required in order for the Developer to pay the contractor so that there is not a work stoppage.

Background Information (City Council)

Member Motion MM25.22