

Supporting Canada Square Working Group Process with Additional Information (Lease Background)

Date: May 4, 2021

To: City Council

From: City Solicitor

Wards: Toronto - St. Paul's - 12

SUMMARY

This report supplements and provides lease background information requested by Toronto and East York Community Council "Supporting Canada Square Working Group Process with Additional Information", being Item TE24.96 which was adopted on April 21, 2021.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

On April 24, 24, 26, 27, 2018, City Council adopted "Update on the Ground Lease Amendment for Toronto Transit Commissions Land at Yonge-Eglinton (Canada Square):

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX33.7>

On April 16, 2018, Special Meeting the TTC Board adopted "Redevelopment of TTC Lands at Yonge and Eglinton":

http://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2018/April_16/Agenda/Agenda.jsp

On June 7, 2016 City Council adopted "Redevelopment of Toronto Transit Commission Lands at Yonge-Eglinton," requesting Build Toronto, in consultation with the Toronto Transit Commission, Real Estate Services and City Planning, to negotiate directly with the long-term lessee(s) located at Yonge and Eglinton regarding options for

redeveloping the lands, and to report back to City Council with an evaluation of options and a recommended plan for advancing redevelopment:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX15.10>

On April 27, 2016 the TTC Board adopted "Redevelopment of TTC Lands at Yonge-Eglinton," requesting report back in Q4 2016 on recommendations for redevelopment and forwarded same to Executive Committee and the City's Chief Corporate Officer for consideration:

http://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2016/April_27/Agenda/index.jsp

On May 25, 26, and 27, 2009 City Council declared surplus for turnover to Build Toronto a portion of the Lands shown as Part 3 and Part 4 in Appendix A, subject to TTC declaring these properties surplus:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.EX32.5>

On April 27, 2009 the TTC Board approved the transfer of transit properties to Build Toronto including a portion of the TTC Lands at Yonge-Eglinton, specifically the old bus garage property (shown as Part 4 in Appendix A):

http://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2009/Apr_27_2009/Supplementary_Agenda/index.jsp

COMMENTS

This report provides a brief summary of the ground lease history on the Toronto Transit Commission (TTC) site at Yonge-Eglinton (Canada Square) and conditions precedent of the future consolidated and amended lease between TTC and Oxford Properties (Oxford), on behalf of the ground tenants further to the approval of the TTC Board (April 16, 2018) and Council (EX33.7 adopted April 24, 2018)

With respect to the lease arrangements, there are currently three leases in place for the 7.2 acre site located at the southwest corner of Yonge and Eglinton:

Phase 1: 2210 Yonge Street - Bank Pavilion;

Phase 2: 2190 Yonge Street - Canada Square and 2180 Yonge Street - Canada Tire building; and

Phase 3: 2190 Yonge Street (Cineplex and Parking Garage) and TTC Interim Bus Terminal.

TTC, holding title to the property as the City's agent, is landlord. The current tenants are OPG Investment Holdings Limited Partnership, by its general partner OPG Investment Holdings GP Inc., CT REIT (Yonge Eglinton) Limited Partnership by its general partner, CT REIT (Yonge Eglinton) GP Corp., and Cansquare (Canada 8) Limited Partnership ("Cansquare"). Cansquare has since assigned its one third interest to the two other tenant entities. These leases (the "Original Leases"), as amended, commenced in the 1960's and 70's, and will expire, depending the phase, on either August 19, 2046 (Phases 2 and 3) or May 11, 2051 (Phase 1). The site, as it is currently configured and

built upon, reflects the planning decisions, Original Leases and other agreements from the 1960's and 1970's

In 2018 CreateTO, negotiating the new lease arrangement on behalf of TTC and the City, brought forward a report to Executive Committee (EX33.7), subsequently adopted by City Council. That report was the culmination of the prior TTC Board and City Council decisions set out above. It recommended the consolidation of the three Original Leases, into a single future lease having a term of ninety nine years, with an option to extend for a further ninety nine years. The new lease provides for the construction of certain TTC improvements, including a new bus terminal, partially funded by Oxford as part of its lease obligations. The future lease does not dictate nor stipulate any planning requirements and ensures that the necessary planning process and decisions of the City are not fettered by the lease.

The commencement of the future lease is presently conditional on three conditions precedent, in favour of the tenant. They relate to (i) the environmental condition of the lands; (ii) the surrender of certain lands currently occupied by Metrolinx in connection with the Eglinton Crosstown construction; and (iii) municipal (planning) approvals. The outside dates for these conditions all fall in 2022. In the event that the tenant does not either waive or indicate satisfaction of the conditions by those dates then, subject to potential extension of the dates by mutual agreement, the current Original Leases will continue to govern the arrangement between the tenants and TTC, holding title as the City's agent.

All lease amendment agreements contemplated by recommendations 4 and 5 of EX33.7 have now been executed and, accordingly, the timeline for which confidentiality of that material was to be maintained has now passed. While the new lease arrangement currently remains conditional, and the term has not yet commenced, there is no contractual restriction on the release of the business terms contained in that document. Further, it is anticipated that, should the remaining conditions ultimately be waived, and the lease term commence, notice of the lease will eventually be registered on title to the property.

City Legal has been advised by staff of CreateTO, TTC, and Corporate Real Estate Management that, to supplement the information provided above, they are in the process of preparing a summary of the lease business terms, for the purpose of providing additional information to members of Council as needed.

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SIGNATURE

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ATTACHMENTS

None