

## **Amendment of Waterfront Property Management Agreement with Toronto Port Lands Company**

**Date:** September 18, 2023

**To:** General Government Committee

**From:** Executive Director, Corporate Real Estate Management

**Wards:** 14 - Toronto-Danforth

### **SUMMARY**

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The purpose of this report is to seek Council authority for the City to enter into an amending agreement (the "Amending Agreement") with the Toronto Port Lands Company ("TPLC") to amend the existing property management agreement (the "Property Management Agreement") entered into on January 4, 1995 as directed by Council, and subsequent extension agreement entered into on July 4, 2017 (the "2017 Extension Agreement"), renewing the Property Management Agreement for an additional five years. The Property Management Agreement authorizes TPLC to manage certain properties designated as industrial development that the City had acquired from the Toronto Harbour Commissioners.

The Amending Agreement extends the Property Management Agreement for an additional period of 20 years and reflects and confirms the extent of any real property interests of the City in the properties municipally known as 300 Commissioners Street and 11 and 11R Small Street. 300 Commissioners and 11 and 11R Small Street have been managed by TPLC pursuant to the Property Management Agreement or otherwise at the direction of the City in accordance with the Property Management Agreement.

The Amending Agreement also adds the property municipally known as 160 Commissioners Street, formerly part of the Lower Don Trail, which was maintained by the City. The Lower Don Trail will be moved to the west side of Don Roadway as part of the Port Lands Flood Protection work. CreateTO will lead the redevelopment of these and the adjoining lands as part of the McCleary District project in the future.

### **RECOMMENDATIONS**

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The Executive Director, Corporate Real Estate Management recommends that:

1. City Council authorize the Executive Director, Corporate Real Estate Management to execute an amendment to the Property Management Agreement dated January 4, 1995 between the City of Toronto and Toronto Port Lands Company as previously amended

December 31, 2017, in substantially the form of the amending agreement annexed to this report, with such changes or additional provisions that the Executive Director, Corporate Real Estate Management considers necessary or desirable, and in a form approved by the City Solicitor.

## **FINANCIAL IMPACT**

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There are no financial implications resulting from the adoption of the recommendation in this report. Costs to maintain and operate the properties included in the amended Property Management Agreement are included in the operating budget of Toronto Port Lands Company.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact section.

## **DECISION HISTORY**

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On July 4, 5, 6 and 7, 2017, City Council adopted item CC31.24, "Relocation of a Concrete Batching Facility," authorizing the amendment of the Property Management Agreement to renew the term of the agreement for an additional five years and to include the western portion of City lands municipally known as 545 Commissioners Street as part of the real estate portfolio that Toronto Port Lands Company has contracted to manage pursuant to the terms of the Property Management Agreement. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CC31.24>

On October 11, 1994, City Council adopted Clause 61 of Executive Committee Report No. 23 on a joint report ("October Report") from the Acting Commissioner of City Property, the President of TPLC, the Medical Officer of Health and the Commissioner of Public Works, which recommended the transfer of certain parcels of land to TPLC and to the City from the Toronto Harbour Commissioners; and that certain parts of the land transferred to the City be managed by TPLC.

## **COMMENTS**

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### **Background**

In 1995, the City entered into a Property Management Agreement with the Toronto Economic Development Corporation (now known as TPLC), authorizing TPLC to manage certain properties designated as industrial development that the City had acquired from the Toronto Harbour Commissioners. Under the Property Management Agreement, TPLC assumed full responsibility for the management of the properties and their related financial obligations, including building and property management, marketing and development, leasing and lease administration, and environmental management. As such, all annual operating costs and revenues were for the account of TPLC. The Property Management Agreement was for a term of 20 years with a

provision for renewal for an additional 20 years, although the renewal option was not exercised.

In 2017, the City entered into a subsequent 2017 Extension Agreement renewing the agreement for a five year term, sufficient to provide continuity for the development of a lease transaction with Remicorp Industries Inc./ML Ready Mix without unduly fettering the authority of the board of the new Toronto Realty Agency (operating as CreateTO) in the future.

### **Amending Agreement**

To ensure continued property management and financial stewardship of certain industrial City-owned properties in the Port Lands, staff recommend entering into a twenty (20) year Amending Agreement with TPLC. The Amending Agreement also includes proposed administrative amendments and property additions outlined in the proceeding sections. The major terms and conditions of the Amending Agreement are outlined in Attachment 1.

#### *Revising 545 Commissioners Street to 541 Commissioners Street*

Under the 2017 Extension Agreement, the western portion of the works yard at 545 Commissioners Street was added to this portfolio. Subsequently, these lands were assigned a municipal address of 541 Commissioners Street and accordingly, any references to “545 Commissioners Street” in the Property Management Agreement and the 2017 Extension Agreement should be replaced with 541 Commissioners Street.

Following the execution of the 2017 Extension Agreement, TPLC did not take possession and control of any part of 541 Commissioners Street until November 14, 2021, when it took possession and control of only the western half of 541 Commissioners Street, and the City continues to manage and control the eastern half of (the “Toronto Water Site”). To facilitate the proposed commercial development of 541 Commissioners Street, TPLC submitted an application for consent to a long-term lease in excess of 21 years for the lands (the “Consent Application”), which was approved by the City’s Committee of Adjustment on March 28, 2018.

Accordingly, the effective date of adding 541 Commissioners Street as part of the real estate properties that TPLC has contracted to manage under the Property Management Agreement should be November 14, 2021, instead of July 4, 2017 pursuant to the 2017 Extension Agreement; and the City remains solely responsible for managing and maintaining the Toronto Water Site.

#### *Addition of 300 Commissioners Street*

By an expropriation plan registered as Instrument No. AT5306866 and dated November 29, 2019, the City had inadvertently expropriated the fee simple interest in the lands municipally known as 300 Commissioner Street, where the direction from City Council was to expropriate only the existing leasehold interest at 300 Commissioners at the time in order to facilitate the future extension of Broadway Avenue, south of Lakeshore Drive. Effective November 29, 2019, 300 Commissioners should be added to the Property

Management Agreement as part of the real estate properties that TPLC has contracted to manage pursuant to the terms of the Property Management Agreement. The City should be responsible for providing TPLC with at least one year's prior written notice before taking any action that would change, amend or revoke TPLC's rights to 300 Commissioners under the Property Management Agreement or require TPLC to return vacant possession of 300 Commissioners to the City.

*Addition of 160 Commissioners Street and 11 and 11R Small Street*

The property known as 160 Commissioners Street, formerly part of the Lower Don Trail, which was maintained by the City, is also proposed to be added to the Property Management Agreement. The Lower Don Trail will be moved to the west side of Don Roadway as part of the Port Lands Flood Protection work. CreateTO will be leading the redevelopment of these and the adjoining lands as part of the McCleary District project in the future.

The lands municipally known as 11 and 11R Small Street, Toronto, should be added to the Management Agreement effective as of June 22, 1995, as part of the real estate properties that TPLC was contracted to manage. The site will eventually be transferred to Waterfront Toronto as part of the broader Quayside redevelopment plan.

*Insurance Requirements*

In 2019, TPLC, as an affiliate of the City, transitioned into the City's Insurance and Risk Management program (the "City IRM Program") at the direction of the City. This replaced all of TPLC's previous insurance policies, including without limitation, commercial general liability insurance and property insurance, with the City's insurance policies under the City IRM Program. The City IRM Program satisfies the requirement to obtain insurance under the Property Management Agreement. The insurance coverage amounts under the City IRM Program may be different or less than those prescribed under Section 2.01 of the Management Agreement.

**Conclusion**

Staff recommend the City enter into the Amending Agreement with TPLC to revise and add the above noted properties for a term of 20 years to ensure continued management and financial stewardship of important industrial City-owned sites in the Port Lands.

**CONTACT**

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## **SIGNATURE**

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Patrick Matozzo  
Executive Director, Corporate Real Estate Management

## **ATTACHMENTS**

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Attachment 1 - Extension Agreement with Amendments