



A12

ADMINISTRATIVE REPORT

Report Date: December 6, 2010
Contact: Michael Flanigan
Contact No.: 604.872.7422
RTS No.: 8894
VanRIMS No.: 08-2000-20
Meeting Date: December 14, 2010

TO: Vancouver City Council

FROM: Director of Real Estate Services in consultation with the General Manager of Engineering Services

SUBJECT: East Fraser Lands - Area 2 Rezoning - Lease of foreshore lands and waterlots

RECOMMENDATION

- A. THAT Council authorize the Director of Real Estate Services to negotiate and execute a sublease (the "Interim Sublease") from the Vancouver Fraser Port Authority, known as Port Metro Vancouver ("PMV"), for approximately 13,200 square metres of the foreshore land and waterlots between Kerr Street and Boundary Road located between the Fraser River and the area covered by the East Fraser Lands Official Development Plan (the "Leased Premises"), which Interim Sublease will provide as follows:
- i. the Leased Premises will be as legally described in Appendix A and generally as shown within the bold outline on the plan attached as Appendix B;
 - ii. the City will be responsible for an additional area (approximately 16,910 square metres) adjacent to the Leased Premises (the "Licence Area") as described in Appendix A and generally as shown hatched on the plan attached;
 - iii. the term will be one year less a day, commencing January 1, 2011 and expiring December 30, 2011, provided that if the head lease (the "Head Lease") between the Province and PMV is extended because a new head lease has not been entered into by December 30, 2011, the term may be extended by the period of the extension of the Head Lease;
 - iv. the prepaid rent for term will be a nominal rent of \$100.00;

- v. the Leased Premises may be used for recreational purposes, including waterfront pathways and plazas, water play areas and other river-oriented recreational uses, including licenses and concessions incidental to recreational purposes; and
 - vi. it will otherwise be in accordance with the terms and conditions set out in this report and to the satisfaction of the Director of Real Estate Services and the Director of Legal Services.
- B. THAT Council authorize the Director of Real Estate Services to negotiate with PMV and execute an offer to sublease (the "Offer to Sublease") for the grant of a new sublease (the "Long Term Sublease") for the same Leased Premises as the Interim Sublease and on substantially the same terms and conditions as the Interim Sublease except that the Long Term Sublease will be for a term commencing on the later of January 1, 2012 and the day following expiry of the Interim Sublease and will expire on December 30, 2050 and except that the City will have no right to renew the Long Term Sublease.
- C. THAT Council approve the source of funding for the Interim Sublease and Long Term Sublease to be the citywide Development Cost Levies (Park Development).

GENERAL MANAGER'S COMMENTS

The General Managers of Engineering and Business Planning and Services RECOMMEND approval of the foregoing.

COUNCIL POLICY

For leases entered into by the City as tenant, Council must approve a budget for a lease and the approximate area to be leased. Unless Council directs otherwise the Director of Finance may then approve the lease where the total rental value is less than \$250,000 and the term (including renewal options) is no more than 10 years. Therefore, for the proposed Interim Lease, Council must approve the source of funding and the approximate lease area for the Interim Lease.

As the proposed Long Term Sublease term is greater than the 10 year term which can be approved by the Director of Finance, Council approval is required.

PURPOSE

The purpose of this report is to seek Council's authorization for the City to enter into the Interim Sublease and the Offer to Lease for the Long Term Sublease with the landlord, Vancouver Fraser Port Authority, known as Port Metro Vancouver (PMV) of the Leased Premises as legally described in Appendix A, consisting of approximately 13,200 square metres of foreshore lands and waterlots, generally as shown on the draft survey plan attached as Appendix B.

BACKGROUND

Council approved the East Fraser Lands Official Development Plan (ODP) in November 2006, and approved amendments to the ODP in October 2009. The ODP calls for the redevelopment of approximately 51 hectares of industrial land into a predominantly residential community. Redevelopment requires the construction of riverfront walkways and foreshore improvements.

Parklane Homes, the owners of the majority of the land within the ODP area, is proceeding to fulfil the rezoning prior-to conditions for the rezoning of the lands known as "Area 2" in the ODP (the "Area 2 Rezoning"). Area 2 consists of approximately 14.16 hectares of land located in the westerly portion of the ODP area. One of the rezoning prior-to conditions is that the City obtain a sublease from PMV to allow the development and use of the riverfront for walkways and foreshore improvements.

PMV holds the foreshore lands and waterlots along the Fraser River under the terms of a head lease (the "Head Lease") from the Province, as head landlord. The term of this Head Lease expires on December 31, 2011. PMV is currently negotiating with the Province for a renewal (or extension) of this Head Lease.

DISCUSSION

PMV has agreed to enter into the Interim Sublease with the City for the Leased Premises for a bridging period until a new or extended Head Lease has been entered into between the Province as landlord and PMV as tenant. At the same time as PMV and the City enter into the Interim Sublease, they will also enter into an Offer to Lease which will provide that if the Head Lease is renewed or extended long term, the parties will enter into the Long Term Sublease for a term expiring in 2050.

The Long Term Sublease will provide that, prior to expiry of the Long Term Sublease, the City may give written notice to PMV of its desire to enter into a renewal of the Long Term Lease, subject to the requisite renewals or extensions of the Head Lease. PMV may elect to, but is not obligated to, renew the Long Term Sublease for a further term determined by PMV.

Other than the length of term of these subleases, The Interim Sublease and the Long Term Sublease will both contain substantially the same terms and conditions, except for the length of the term of each sublease, as follows:

- (a) the Interim Sublease term will be for one year less a day, commencing on January 1, 2011 and expiring on December 30, 2011, provided that if the head lease (the "Head Lease") between the Province and PMV is extended because a new head lease has not been entered into by December 30, 2011, the term may be extended by the period of the extension of the Head Lease; and
- (b) the Long Term Sublease will be for a term commencing on the later of January 1, 2012 and the day following expiry of the Interim Sublease and will expire on December 30, 2050, and the City will have no right to renew the Long Term Sublease.

Otherwise the terms and conditions of these subleases will be as follows:

- the Leased Premises will consist of approximately 13,200 square metres of foreshore land and waterlot between Kerr Street and Boundary Road as legally described in Appendix A and generally as shown on the plan attached as Appendix B;
- the City will be responsible for an additional area adjacent to the Leased Premises (the "License Area") as described in Appendix A and generally as shown on the plan attached as Appendix B, which License Area will contain certain shoreline works required by the *Fisheries Act*, and all of the provisions that apply to the Leased Premises will apply to the License Area;
- the prepaid rent for term will be a nominal rent of \$100.00;
- the Leased Premises may be used for recreational purposes, including waterfront pathways and plazas, water play areas and other river-oriented recreational uses, including licenses and concessions incidental to recreational purposes;
- the City may not sublet any portion of the Leased Premises to third parties without the consent of PMV, however the City may licence persons to use a portion of the Leased Premises on a temporary basis without the consent of PMV;
- City will waive its riparian rights for the term and consent to log boom storage in the Fraser River adjacent to the Leased Premises;
- the City will be required to conduct certain environmental baseline testing at the commencement of the term and may be required to complete end of term testing at the end of the term.

Once the Interim Sublease and Offer to Sublease for the Long Term Sublease are ratified by the PMV Board of Directors and the other rezoning prior-to conditions are met, the Area 2 Rezoning by-law will be enacted and the development of the portion of the Leased Premises fronting Area 2 will proceed with the construction of the river front walkways and foreshore improvements. Following completion of the improvements to the Leased Premises according to the development phasing of the ODP area, final survey plans will be completed to delineate the boundaries of the Leased Premises.

The Leased Premises will include the foreshore and waterlot areas required for park and recreational uses, community purposes and foreshore improvements for the entire EFL development from Kerr Street to Boundary Road as required by the EFL ODP.

FINANCIAL IMPLICATIONS

The City will be obligated to pay a prepaid rent for each of the Interim Sublease and the Long Term Sublease of \$100.00 plus applicable taxes for the term, plus annual property taxes if levied and any additional rent payable for all reasonable costs, charges, expenses or outlays incurred by PMV relating to the City's or its licencees' use of the Leased Premises and the License Area. Source of funding to be citywide Development Cost Levies (Park Development).

ENVIRONMENTAL IMPLICATIONS

The Interim Sublease and Long Term Sublease contain provisions requiring baseline environmental testing at the beginning of term and environmental testing at the end of term. Parklane Homes has conducted environmental investigations to the satisfaction of the Ministry of Environment for the upland properties and the existing foreshore areas of the waterlots. These tests will satisfy the baseline test requirements and no further environmental investigations will be required by the City prior to execution of these subleases. End of term testing will be in accordance with PMV's environmental requirements for tenants of PMV. The guidelines are focused on industrial activities and uses and therefore the proposed recreational uses by the City for the Leased Premises and the License Area are expected to result in limited, if any, end of term testing. Required environmental investigations will be determined by PMV near the end of the City's tenure of the Leased Premises and the License Area.

CONCLUSION

The Interim Sublease will be entered into for a bridging period until the Head Lease between the Province and PMV is renewed or extended long term. Once the Head Lease is renewed or extended, the Long Term Sublease to be entered into pursuant to the Offer to Sublease, and will secure the City's interest in the development and use of the riverfront walkways and foreshore improvements until 2050. The Director of Real Estate Services is of the opinion that the terms and conditions of the proposed Interim Sublease and Offer to Sublease for the Long Term Sublease are reasonable.

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Legal Description

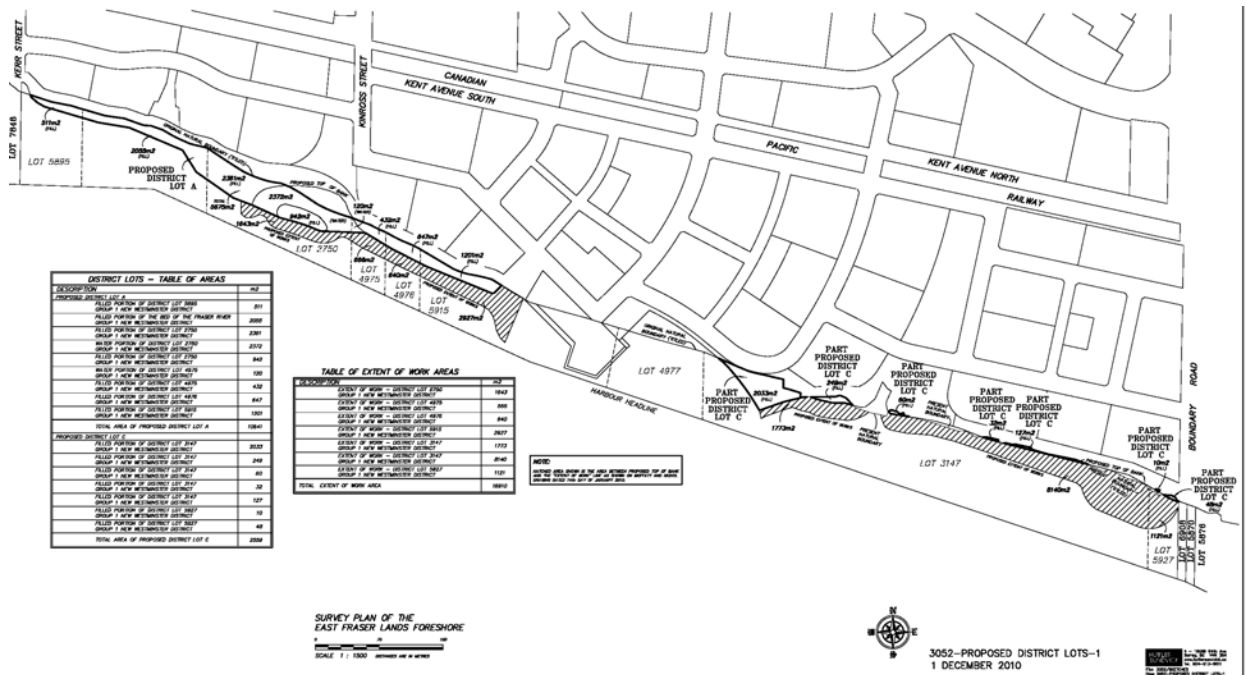
LEASED PREMISES: - Description

That approximately 511 square metre Filled Portion of District Lot 5895;
That approximately 2055 square metre Filled Portion of the Bed of the Fraser River lying between District Lot 5895 and District Lot 2750 (the "Unsurveyed Portion");
That approximately 5675 square metre Portion of District Lot 2750;
That approximately 552 square metre Portion of District Lot 4975;
That approximately 647 square metre Filled Portion of District Lot 4976;
That approximately 1201 square metre Filled Portion of District Lot 5915;
Those approximately 2033, 249, 60, 32 and 127 square metre Filled Portions of District Lot 3147; and
Those approximately 10 and 48 square metre Filled Portions of District Lot 5927;
All of Group 1 New Westminster District and shown generally on Plan attached as Appendix "B" and comprising approximately 13,200 square metres.

LICENSE AREA: - Description

Those portions of District Lots 2750, 4975, 4976, 5915, 3147, and 5927, all of Group 1, New Westminster District shown generally hatched on Plan attached as Appendix "B" and comprising approximately 16,910 square metres.

Survey Plan of the East Fraser Lands foreshore



SURVEY PLAN OF THE EAST FRASER LANDS FORESHORE
SCALE 1:1500 (DIMENSIONS ARE IN METERS)



3052 - PROPOSED DISTRICT LOTS-1
1 DECEMBER 2010

