

EMBARGOED UNTIL 4:00 p.m. July 31/2018

Plan Development Agreement vs. Framework Agreement – Comparison Table

As the sole governing agreement, the PDA entirely supersedes the Framework Agreement (FA), a document initially developed between WT and SWL to provide a framework for discussion as they pursued the PDA. The Framework Agreement is null and void once the PDA is signed.

	Framework Agreement	Plan Development Agreement
Purpose	Planning and oversight of MIDP. Capitalization and implementation of MIDP. (Preamble, s. 18, 21, 22, 23, 33)	Planning and oversight of MIDP only (s. 1.05) The parties will determine the nature of their relationship in proceeding to implementation of the MIDP, if approved (s. 2.02(d)). Another series of agreements will define implementation (s. 2.01(a), (b) and (c))
Parties to Agreement	Waterfront Toronto Sidewalk Labs LLC and Sidewalk Toronto, Limited Partnership (s. 1 and 2)	Waterfront Toronto and Sidewalk Labs LLC only (s. 2.01) SWTO is not a party to the PDA; its role is limited to providing funding (s. 5.02(e))
“Special Purpose Vehicles” with roles to play	Master Developer, Infrastructure Vehicle, Infrastructure Investor, Development Companies, Project Companies (s. 3, 4, 5, 6, 7, 21, 26, 35, 36, 37, 38,)	No “special purpose vehicle” concepts are carried forward in the PDA. Implementation terms are to be negotiated, if the MIDP is approved.
Project Site/Geographic area of MIDP	Quayside and lands in the “Eastern Waterfront” as they become available to WT (s. 8, 9, 22, 23)	PDA identifies planning opportunities that can be considered at scale in the larger “Designated Waterfront Area” (DWA) with no specific mention of the Eastern Waterfront or the Port Lands (Schedule B – “MIDP Scope” and Schedule E – “MIDP Site”) Except for Quayside, no lands in the DWA are automatically included in the MIDP. Inclusion of lands outside of Quayside is based on justification with a business case (Schedule B, s. 1.03)

<p>Core Planning Objectives</p>	<p>Planning objectives are the aspirations set out in the RFP (mobility and transportation, building forms and construction techniques, social service delivery, environmental targets, optimization of open space, data-driven decision making, governance and citizen participation, regulatory and policy innovation) (s. 10)</p> <p>A refers to relocation of Google Headquarters to and creation of Urban Innovation Institute in Quayside or the Eastern Waterfront (s. 28 and 31).</p> <p>A refers to the establishment of an incubator for local early stage technology companies and an affordable housing trust (s. 29 and 30).</p>	<p>Core planning objectives have not changed, but PDA emphasizes a more people-first approach (e.g., job creation, housing affordability, data privacy) with more focus on public interest (s. 1.02 and Schedule B)</p> <p>The MIDP Scope (Schedule B) includes provision for Google HQ and Urban Innovation Institute under Section 1.02 – “11. Economic Development & Urban Innovation Institute”</p> <p>The MIDP Scope does not carry forward the incubator and affordable housing trust concepts specifically, but job creation focused on urban innovation and housing affordability remain key objectives s. 1.02 and in Schedule B.</p>
<p>WT Roles and Responsibilities</p>	<p>In the FA, WT was to play key roles at the outset (defining pillar and phasing strategies, integrating the MIDP into BIPs to be presented to Council, plan government outreach), then fall into a supporting role to SWL as Master Developer during implementation (s. 12)</p>	<p>The PDA makes it clear that WT is the steward of the public interest, the revitalization lead, and to work in collaboration with SWL in creating the MIDP and throughout any implementation, including community and government consultations (s. 1.03 (a))</p> <p>WT will present a BIP to Council that is consistent with the MIDP, but BIPs remain subject to municipal approvals (s. 6.01)</p>
		<p>The parties have developed a fulsome Communications and Government Relations Principles (more under “Community</p>

		<p>Consultation/Engagement”, below) with WT to take the lead role in public round tables.</p> <p style="text-align: center;"><u>Additional WT roles in the PDA:</u></p> <ul style="list-style-type: none"> ● Participation in a “Project Management Committee” redefined in the PDA to oversee development of the MIDP and procurement. PMC consists of senior members of both SWL and WT (s. 6.04 and Schedule F – “Collaboration Principles”) ● Coordinating design of built form and public realm through the PMC and with the Waterfront Toronto Design Review Panel (s. 1.03(a)(iv)) ● Overseeing digital governance elements of the MIDP, including through the Digital Strategy Advisory Panel (more under “Data and Privacy”, below)
<p>Sidewalk Roles and Responsibilities</p>	<ol style="list-style-type: none"> 1. “Master Developer” – development company through which the MIDP will be developed and implemented 2. Provide Funding Commitment of \$50M (including reimbursement of WT’s expenses) – more detail in s. 16 3. Provision of management, administrative and technology services by SWL and other parties 4. Capital for Development Companies and Infrastructure Investor <p>(s. 11)</p>	<p>SWL’s role under the PDA is to collaborate with WT in the creation of the MIDP including community and government consultations, provide the \$50M funding commitment for MIDP creation activities, and provide urban planning and engineering expertise (s. 1.03(b))</p> <p>There is no Master Developer in the PDA. Steps beyond planning and oversight of MIDP are subject to further approvals. SWL’s role in any vertical development or infrastructure to be defined in MIDP creation phase (s. 2.03(b))</p>
<p>Initial Plan Milestones and Procurement</p>	<p>The Framework Agreement sets out a series of milestones to be reached before</p>	<p>Most milestones have been completed or satisfied (s. 4.01), with the exception of “Fair Procurement Standards” which were intended in the FA to be settled in the PDA stage. Basic</p>

	executing the PDA and unlocking the \$40M tranche of the funding commitment (s. 14)	procurement principles were agreed to in the PDA, but are to be more developed in the implementation agreements (s. 2.03 and Schedule D)
Process and Agreements	Stages 0-3 (s. 15)	Stages concept eliminated; no pre-determination of implementation stages. Approval of MIDP and principal implementation agreements (i.e. land, IP and infrastructure methodologies) are next steps (s. 3.01)
Transfer of Land/Equity Contribution	<p>The FA had several clauses that contemplated options or requirements to transfer or make land available to SWL for purchase (e.g., s. 22, 23, 24, 25, 27).</p> <p>The FA also established SWL's \$50M funding contribution as future equity in development.</p>	<p>The PDA makes clear that there is no sale or transfer of land contemplated in the agreement (s. 1.05(c))</p> <p>The "land methodology" to be developed concurrently with the MIDP will establish terms for any transfer of Quayside, using fair market value as a key principle (s. 2.02(a) and (b))</p> <p>The PDA re-sets the \$50M as a funding contribution at-risk during the planning phase, and makes it clear that the \$50M does not constitute payment towards land. If the MIDP is approved, the parties will negotiate consideration of the funding contribution as part of a profit waterfall, in the Principal Implementation Agreements (s. 1.05(c) and s. 2.02(c))</p>
Intellectual Property	The FA permitted WT a royalty-free license over certain site-specific IP created in the course of the MIDP, if not approved (s. 20)	<p>The PDA elaborates on WT's rights to use site-specific and co-created IP (s. 9.01(b) and Schedule G), including information sharing and delivery of reliance letters to WT and the City of Toronto (s. 6.02(b))</p> <p>The PDA also contemplates opportunities for WT to share in profits and revenues in IP developed as part of the project, to be defined in more detail concurrently with the MIDP (the IP and Infrastructure Methodology) (s. 2.02(c))</p>

<p>Data and Privacy</p>	<p>The FA was mostly silent on issues of privacy and data-sharing.</p>	<p>The PDA provides a set of Digital Governance Framework Principles (Schedule I) outlining the values that will underpin the design and development of the MIDP. These principles speak to how digital innovations will protect personal privacy and civil liberties while providing shared benefits. The principles also set out the establishment of the Digital Strategy Advisory Panel, a group of subject-matter experts to help advise on the safe and ethical use of new technologies.</p>
<p>Community Consultation/Engagement</p>	<p>The FA contemplated developed of principles around community and government engagement, but provided no detail</p>	<p>The PDA includes the “Communications and Government Relations Principles” (Schedule J) which acknowledges the instrumental nature of public engagement and consultation and defines roles and accountabilities to stakeholder and the community during the creation of the MIDP.</p>
<p>Exclusivity and Additional Lands</p>	<p><u>Exclusivity (s. 45)</u> During the MIDP creation stage, WT agreed not to negotiate any planning or development transactions in Quayside and the Eastern Waterfront that would be an alternative to, or interfere with, the project.</p> <p>During the same period, SWL agreed to notify WT of any substantial negotiations regarding an urban development project of similar or greater size and vision as the project for Quayside and the Eastern Waterfront.</p> <p><u>Additional Lands (s. 24)</u> If either party or their respective controlled affiliates acquires lands in the Designated</p>	<p>During the MIDP creation stage, neither WT nor SWL will negotiate any planning or development transactions in the Designated Waterfront Area that would be an alternative to, or interfere with, the project (i.e., exclusivity is expanded, and mutual) (s. 11.01)</p> <p>During the same period, SWL continues to agree to notify WT of any substantial negotiations regarding an urban development project of similar or greater size and vision as the project, subject to confidentiality (. 11.01(c))</p> <p>The FA provision regarding Additional Lands is essentially unchanged (s. 12.01)</p>

	Waterfront Area, they will notify the other and such lands will be included in the MIDP	
Indemnity and Release	The FA did not contain indemnities and releases	<p>The PDA states that SWL and WT indemnify each other from third party claims in connection with the indemnifying party's negligence, intentional misconduct or breach of obligations (s. 14.04). Neither SWL or WT will be liable to the other for indirect, incidental or consequential damages , or for the loss of profit or opportunity (s. 14.05(b))</p> <p>SWL recognizes that the three orders of government are not liable for WT's obligations under the PDA and specifically releases them from any claims (s. 14.05(a))</p>
Termination	Termination rights (i) if Stages 2 and 3 were not completed by their deadlines; (ii) in the event of an unresolved dispute; and (iii) if the parties agree to terminate the FA (s. 19)	<p><u>PDA termination rights (s. 9.01):</u></p> <ul style="list-style-type: none"> (i) If MIDP is not approved by September 30, 2019, (subject to extension rights) (ii) If the Principal Implementation Agreements are not approved by December 31, 2019 (subject to extension rights) (iii) If approvals are unlikely and funding ceases (iv) In the event of an unresolved dispute (v) If parties mutually agree to terminate