

# Unmasking the Halloween Agreement: What's Up with Waterfront Toronto and Sidewalk Labs?

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# **Unmasking the Halloween Agreement: What's Up with Waterfront Toronto and Sidewalk Labs?**

Nick De Carlo, Gene Desfor, David Robertson  
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## **Introduction**

On October 31, 2019, Waterfront Toronto announced an agreement with Sidewalk Labs that purported to resolve a set of threshold issues around the development of the Quayside Project on Toronto's waterfront. Headlines proclaimed that Sidewalk Labs had blinked, Waterfront Toronto had forced Google's sister company to accept restraints on their overly ambitious proposal. It was widely reported and applauded that Sidewalk Labs was forced back to the twelve acres on Quayside and abandoned its dream of a 190-acre IDEA District (Oved 2019; Lorinc 2019).

But is that what really happened? Did Sidewalk Labs blink? Has the Sidewalk Labs project been reduced to twelve acres, and has Google been corralled into accepting a more limited role on Toronto's waterfront? Or ..... did Waterfront Toronto help Sidewalk Labs to disguise its intention to dominate Toronto's Waterfront? Is Waterfront Toronto acting in the public interest or is it fully co-operating in developing a Sidewalk Labs dominated smart city project?

The geographic scope of the project was perhaps the most headline grabbing of the issues that were addressed in the October 31<sup>st</sup> Agreement. But there were other significant issues (Wylie 2019, Haggart 2019).

- Citizens concerned with data privacy and data use were reassured that the Urban Data Trust was off the table and that Waterfront Toronto would assume custodial responsibility for data.
- Canadian tech entrepreneurs who had been critical of Sidewalk's proposed treatment of Intellectual Property and patents appear to have some assurances that good faith negotiations will lead to both fuller access and protection.
- Toronto real estate developers, who had been shut out of the first phase of the former deal, now appear to have a chance to partner with Sidewalk Labs in building Quayside.

<sup>1</sup> On January 14, 2020, The Toronto Star, The Globe and Mail, the Financial Post and Bloomberg all reported that Dan Doctoroff, the CEO of Sidewalk Labs, spoke at a Toronto Board of Trade lunch meeting. These reports all mention his discussions with Google, Alphabet and Waterfront Toronto about relocating Google's Canadian Headquarters at the Quayside site rather than on Villiers West. Whether that happens is still up in the air. The October 31<sup>st</sup> Agreement makes a number of references to Villiers West as the proposed site of Google's headquarters.

- Premier Ford, who had expressed his concern that the previous arrangement was a “terrible deal for taxpayers” now is happy that he can claim that “the land is valued at a fair market price” and that Ontario can get on with being open for business (Benzie, R. and Rider, D. 2019).
- And Indigenous people who were previously ignored in public consultations got a brief ‘mea culpa’ from Waterfront Toronto (Waterfront Toronto 2019h).

The media was quick to call the October 31<sup>st</sup> deal a victory for Torontonians. Waterfront Toronto had stood up to Sidewalk Labs and had forced them to heel (Oved 2019).

But on closer examination, the core of the old deal remains intact. Sidewalk Labs gets to use Toronto’s Waterfront as a launching pad for its suite of smart-city technologies. It gets an inside track to future blocks of land. It gets Waterfront Toronto on board to run its regulatory interference. It gets a nod and a wink from the City for the location of Google’s Canadian Headquarters and an Urban Innovation Institute on Villiers West. And it gets access to the data and intellectual property from the formerly known as, but never again to be called, “Urban Data.”

What has changed is the arm’s length independence of Waterfront Toronto. The Oct. 31<sup>st</sup> Agreement masked an important shift on the waterfront. The decision in 2017 by Waterfront Toronto to work jointly with Sidewalk Labs on developing its plans has blurred the lines between public and private and has left a widening public interest gap. Sidewalk Labs didn’t blink, it winked.

### **Waves of Waterfront Development**

Just over a hundred years ago, in May 1914, the US based National Conference on City Planning met in Toronto to consider a ground-breaking plan for Toronto’s waterfront. The planners agreed to travel north for what they considered an extraordinarily important mission. They were to review and comment on the Toronto Harbour Commissioners’ proposed plan to transform the waterfront from a useless, unhealthy and foul-smelling swamp into hundreds of acres of productive solid ground intended to be a hive of industrial activity (Desfor 2011).

According to the proposed Waterfront Development Plan, industry was to be the engine of growth for the city, and the Harbour Commission, and Toronto’s elite, had their minds set on making Toronto the Pittsburgh of the north.

The professional planners did make constructive comments and the plan was implemented, virtually in its entirety. As it turned out, the industrial dreamland never quite emerged. But the legacy of those historic and largely unfulfilled dreams did-- that is, the creation of hundreds of acres of solid land. Those waterfront lands are now the stage on which a new economic and political struggle is playing out.

This time around, waterfront development is being steered by Waterfront Toronto, and smart city technologies are the new engine of economic growth and Big Data companies are seeking to make Toronto the template for its world-wide applications.

## Getting to Here

Waterfront Toronto is a Provincially registered corporation with a Board composed of representatives from all three levels of government that was established in 2001 to help steer the development of the waterfront. By 2015 it was considering its future in light of an uncertain mandate and a lack of long-term government funding (Government of Canada 2013) and was revising its development strategies for a second phase which became known as "Waterfront 2.0" (Waterfront Toronto 2016). Following this new strategy, it decided to develop a 12-acre site on the eastern part of the waterfront on land most of which it owned. In 2017, it issued a Request for Proposals that seems to have been slanted in favour of Sidewalk Labs, a sister company of Google -- although Waterfront Toronto denies this. Sidewalk Labs won the competition and entered into a "funding and innovation partnership" with Waterfront Toronto to create a twenty-first century smart city on the waterfront (Waterfront Toronto 2017, 2018).

Sidewalk Labs and Waterfront Toronto embraced a grandiose mission to build a smart city. The idea was to use advances in artificial intelligence, algorithms, remote sensors, innovative infrastructure, regulatory changes and high-tech engineered devices as the bases for the development project. Sidewalk noted that its interests were not only in Toronto, but also in creating a "test-bed" for smart-cities around the world.

After a lot of company financed and corporate-organized consultations with civic groups, expensive video productions and demonstration projects, Sidewalk Labs finally submitted its master development plan on June 17, 2019. The 1,500-page Draft Master Innovative Development Plan (MIDP), *Toronto Tomorrow*, envisioned a largely distinct urban zone on the waterfront where it could develop and sell 'smart city' technologies (Sidewalk Labs 2019). Rooted in previously undisclosed ambitions for a Disneyesque totally controlled environment, the plan was anchored by a relocated Google Canadian Headquarters on 190 acres rather than the original twelve.

The expansive site would be governed by a handful of new public-private administrative bodies operating with rules and regulations that were to be different from the rest of the city. Everything and everyone in the zone was to become the 'subject' of a mega-data stream of behavioural, personal, technical and facility information, collected by thousands of cameras and sensors and managed by a new Urban Data Trust that would make the data available to Google and others to mine, manipulate and profit from.

Not surprisingly, the plan was greeted with serious criticism from a wide spectrum of individuals, civic groups and government. On June 24th, one week after its submission and in response to the wide criticism, Stephen Diamond, the Chair of Waterfront Toronto's Board of Directors distributed an open letter to the public (Waterfront Toronto 2019a). The letter

identified four fundamental issues that needed to be addressed before Waterfront Toronto would agree to continuing with a complete evaluation of the MIDP. Not long afterwards, Sidewalk Labs and Waterfront Toronto set a deadline of October 31, 2019, for these threshold issues to be resolved.

Following an intense period of private negotiations, Waterfront Toronto's Board announced that it had come to an understanding with Sidewalk Labs. And on Oct. 31, 2019 the results of those negotiations were made public in the form of a 10-page letter from Waterfront Toronto to Sidewalk Labs entitled "Plan Development Agreement Threshold Issues" that was accompanied by a confirming letter from Sidewalk Labs to Waterfront Toronto and a separate letter from the City of Toronto to Waterfront Toronto (Waterfront Toronto 2019b). The main features, called "key alignments," of the

Agreement are summarized in Waterfront Toronto's Public Update document from November 19, 2019 (see sidebar, p. 4).

These letters of concurrence, what we are calling the Halloween Agreement, provide the basis for Waterfront Toronto's evaluation to determine whether, or which parts of, the project should continue. The evaluation, including a second round of public consultation sessions and technical evaluations, was to be completed by March 31, 2020 but that deadline has now been pushed back to May 20, 2020.

Although Waterfront Toronto and Sidewalk Labs both proclaimed that the letters resolved fundamental issues,

these documents need to be carefully examined. From the outset, we note that the Agreement is not legally binding (Waterfront Toronto 2019h). Just as well. It would be hard to accept a legal document that is as vague, confusing and contradictory as the Halloween Agreement.

Key Realignments – October 31 <sup>st</sup> Agreement		
	Draft MIDP (June 2019)	Realignment: Subset of Draft MIDP ideas to be evaluated by Waterfront Toronto
Project Boundaries	190-acre IDEA District	12 acres of Quayside (IDEA District Concept is removed)
Vertical Development	Sidewalk Labs proposed to be the lead vertical real estate developer at Quayside	Waterfront Toronto will lead a competitive public procurement process for vertical development team(s) to partner with Sidewalk Labs
Digital Governance	Various initiatives related to data collection, data use, and governance (including proposed Urban Data Trust)	Waterfront Toronto will lead all privacy and digital governance matters, including all interactions with government. Waterfront Toronto's draft Digital Principles will be followed as well as our emerging Intelligent Community Guidelines
Public Administrators	New Public Administrator, management entities and regulatory adjustments	No new governance entities. Waterfront Toronto will oversee all aspects of project governance...
Source: Waterfront Toronto, <i>Public Update</i> , November 19, 2019		

About two weeks following the release of the Agreement, Waterfront Toronto organized a public briefing session to update the situation and respond to questions (Waterfront Toronto 2019h). Waterfront Toronto prepared a document entitled "Overview of Realignment of MIDP Threshold Issues" to summarize the main points of the MIDP and the ways it differs from the original plan (Waterfront Toronto 2019c). What follows is a review of some of the main issues in the Halloween Agreement and an assessment of the troubling relationship between Waterfront Toronto and Sidewalk Labs.

### **The land grab lives on**

A prime example of the way Waterfront Toronto and Sidewalk Labs have obfuscated the realities of the Agreement concerns the geographic scope of the project. That Agreement stipulates that, "The amount of land in the proposal has been reduced from 190 acres to 12 acres," but it then equivocates by adding "**as an initial stage.**" (emphasis added). (Waterfront Toronto 2019b)

This ambiguity in the scope of the project continues a problem that has plagued Quayside from its very beginnings. For example, the Waterfront Toronto's *Request for Proposals* (2017) notes,

The [12-acre] Project is **the pilot** for which Waterfront Toronto and the Partner will establish a clear vision...

and a bit later,

Waterfront Toronto considers that by achieving key objectives for the Project it may be beneficial to advance the solutions, processes and partnerships proven successful through the Project **to subsequent developments on the eastern waterfront, ...**  
(emphases added)

The new arrangement reproduces all the expansionist intentions that were present from the start. The Agreement states that geographical expansion may take place with the agreement of both parties. The key to the decision to expand rests with commercial viability:

...any expansion beyond Quayside will be subject to; (i) demonstrating the amount of development area(s) of Villiers West properties or other lands needed to achieve the economic development and innovation priorities shared by Waterfront Toronto and Sidewalk Labs, including commercial viability (Waterfront Toronto 2019b).

### **Sidewalk Labs Yellow Book**

An article in the *Globe and Mail* (Cardosa and O'Kane 2019) revealed that at its inception Sidewalk Labs produced an internal document (known as the "yellow book") that outlined the fundamentals of how Sidewalk Labs saw city design. The *Globe* states: "...the founding vision of the Google-affiliated development company, which included having the power to levy its own property taxes, track and predict people's movements and control some public services." And it wanted to control its city design with extraordinary powers. "This could include granting Sidewalk taxation powers. 'Sidewalk will require tax and financing authority to finance and provide services, including the ability to impose, capture and reinvest property taxes,' the book said. The company would also create and control its own public services, including charter schools, special transit systems and a private road infrastructure.

As Quayside proceeds, there is little doubt Sidewalk Labs will argue that its 'advanced' infrastructure investments (such as a district heating system) need an expanded geographical scale for commercial viability. The Agreement anticipates and supports such an expansion.

Waterfront Toronto's, *Public Update on Quayside* from November 19<sup>th</sup> states that "innovations will only be evaluated in terms of how they perform against Waterfront Toronto's priority objectives" (Waterfront Toronto 2019d). This means that an innovation which meets Waterfront Toronto's priority outcomes (e.g., providing jobs) can be considered for expansion to a larger area to insure its commercial viability.

The *Agreement* goes further, "based on performance at Quayside Waterfront Toronto recognizes that new jobs and economic development opportunities could result from future expansion." Elsewhere it notes, "that Waterfront Toronto recognizes that there could be substantial benefits by providing for an area of future expansion of the initial phase beyond Quayside" (Waterfront Toronto 2019b)

Sidewalk Labs is buying into the revised plan because there is a very real expectation that development will proceed well beyond Quayside. To suggest, as many others already have, that Sidewalk Lab's amended development plan will be limited to the original 12-acres site is a serious mistake. Sidewalk Labs expects to expand to a much larger area.

The ambiguous language of the RFP and its continued appearance in the Agreement suggests that these ambiguities are not accidental but rather intentionally provide a path for Sidewalk Labs' geographical expansion to a much larger area in the Port Lands. What has been abandoned in the Agreement is not the geographic scope of the project but the ability of Sidewalk Labs to refer to the expanded scope as the IDEA district.

### **The Case of Google's Canadian Headquarters on Villiers Island**

Sidewalk Lab's MIDP indicates that Google's Canadian Headquarters will be located on Villiers West (Sidewalk Labs 2019). This land is well beyond the 12-acre site proposed for Quayside. In the Agreement Waterfront Toronto said what has been known all along. Waterfront Toronto can't approve the location of the Google Headquarters on land it didn't own or control. But what



the Agreement does is commit Waterfront Toronto to assist Sidewalk Labs in getting approval for its plan.

Recall that Prime Minister Justin Trudeau announced that Sidewalk Labs was chosen as the “innovation and funding partner” for waterfront development at a press conference in Toronto on Sept. 17, 2017 (YouTube 2017). At that time, it was assumed that Canada's Google Headquarters would be at Quayside. In preparation for the event a background brief to the Prime Minister noted that “the decision to locate Google's Canadian Headquarters in Quayside as an anchor for the cluster offers the opportunity to identify concrete means whereby Alphabet/Google and Canada can further build partnerships to grow innovation and jobs.” And in his prepared remarks the PM spoke of the commitment made by Google to establish its headquarters on the eastern waterfront as a means of anchoring an innovation cluster.

When the MIDP was released in June 2019, Sidewalk Labs, indicated it planned to establish Google's headquarters on the eastern waterfront but not on the lands that were covered by Quayside's 12-acre site. Instead it proposed to locate on Villiers West (Sidewalk Labs 2019). The Agreement, which we were told scaled back the project to Quayside, has a fair bit to say about Google's effort to set up shop on the western edge of Villiers Island. Waterfront Toronto sees such a move as furthering its “objectives particularly in relation to economic development.” As an addendum to the deal, the City has written what seems to be a letter of comfort to Google (Waterfront Toronto 2019b).

The letter addressed to Waterfront Toronto sets out the process and the requirements for an open and competitive procurement process for Villiers Island but ends with this endorsement:

The City of Toronto is excited about the opportunities that could be unlocked through the Quayside project. The City continues to be interested in working with Waterfront Toronto and Sidewalk Labs to identify possible opportunities **where the entire vision of a Google Headquarters, ‘Urban Innovation Institute’ and related development could be realized in a shorter timeframe.** (Waterfront Toronto 2019b, emphasis added)

It is clear that the Sidewalk Labs and Waterfront Toronto are collaborating on expanding their smart-city project to a larger area. Through a series of nods and winks, the location of Google's Canadian headquarters on Villiers West is being planned. If needed, Google can take advantage of its well-stocked cash reserves to out-bid all competitors for the site on Villiers West.

Though Google's headquarters may be consistent with Waterfront Toronto's priority outcome of job creation, it's location on publicly constructed and owned lands and the most desirable site on

Villiers Island is inconsistent with public interests. Villiers Island has been constructed by a massive \$1.25 billion spending of public money for naturalization of the mouth of the Don River and, importantly, flood control. Disregarding all the plans that have been considered, the MIDP has locked in Google's interest in the waterfront as the only vision possible.

### **The MIDP, the Innovation Plan and a Conflict of Interest**

The Halloween Agreement declared that Sidewalk's MIDP would be swapped for a new Innovation Plan (Waterfront Toronto 2019b).

The MIDP had all the feel of a sales and marketing promotion rather than a document to be reviewed and evaluated. The language was deliberately non-committal. It was full of coulds and maybes and meaningless phrases such as Sidewalk Labs will "catalyze the potential" to do this or that. But throughout its pages were more worrisome developments. Initiatives and proposals which raised significant concerns among a wide range of civic organizations and community advocates (see sidebar p.8).

While the MIDP is still in effect, it is now amended by the Halloween Agreement. The discussion of the Innovation Plan in the Agreement continues a vague and ambiguous approach that has characterized Waterfront Toronto's relationship with Sidewalk Labs since the original RFP. It's not clear what the relationship between the MIDP and the Innovation Plan is aside from a few well publicized admonitions that Waterfront Toronto has imposed on its partner.

Sidewalk Labs, for example, is prohibited from using the term the IDEA District. It can no longer champion the Urban Data Trust. It has abandoned its call for the creation of an array of new management authorities to run the waterfront. In stepping away from some of the excesses of the MIDP, Waterfront Toronto is providing ongoing cover for Sidewalk Labs to stay in the game.

**The MIDP** was strongly criticized by those who actually read it, or at least, read large parts of it:

- The eastern waterfront was to become a virtual Googlopolis, a city within our city. A case of corporate overreach in which Sidewalk Labs is trying to build a distinct urban zone.
- Digital innovations are efforts to privatize city functions. Sidewalk Labs is driving a shift from democratic decisions to technology determined outcomes, a transfer of decision-making responsibilities from city workers to artificial intelligence and digital algorithms.
- Technological innovations seem unnecessary, a case of "technology for technology sake" that failed to put people at the centre of the initiatives.
- Housing advocates highlight the glaring inadequacy of Sidewalk Labs affordable housing commitments and criticized the company's efforts to shrink apartments to what it called 'micro' units.
- Advocates for good jobs point to the lack of employment details, the shortcomings of the equity employment initiatives, and a worrying trend to more 'gig' economy jobs.
- Canadian technology entrepreneurs question the wisdom of allowing a massive, foreign multinational to assert technological dominance.
- Privacy advocates are deeply troubled at the pervasive surveillance and the unprecedented data grab that was at the core of the MIDP.

ACORN, Good Jobs for All, Blocksidewalk

In the Agreement, Waterfront Toronto expresses a lot of confusion about the authorship of the Innovation Plan. First Waterfront Toronto declares that it “is prepared to support and advocate for an Innovation Plan.” But it also says Waterfront Toronto will “oversee the development of the innovation plan.” A few paragraphs later it then appears that “Waterfront Toronto and Sidewalk Labs will develop an innovation plan” (Waterfront Toronto 2019b).

At the public briefing session on November 19<sup>th</sup>, Waterfront Toronto's spokespersons contradicted those ideas when they said, it would be Waterfront Toronto alone, that would draft the plan. To be sure, the language of the Agreement is more general than specific, and open to re-interpretation. But more troubling is Waterfront Toronto’s declaration that it would not only draft the plan but also *evaluate* it (Waterfront Toronto 2019b, 2019h).

There is a clear conflict of interest when the organization that is drafting the plan is the same organization that evaluates it. Clearly, Waterfront Toronto cannot both draft the plan and subsequently evaluate its own efforts. The public interest would be better served if a public body did the evaluation rather than relying on the author of the plan.

### The Innovation Plan

Waterfront Toronto reported, at the November briefing session, that once it had re-evaluated Sidewalk Labs’ innovations in the MIDP, it would select a subset of those innovations and proceed to draft the Innovation Plan. The new plan's objective is “to advance the approval and implementation of core innovations” (Waterfront Toronto 2019g).

Waterfront Toronto also describes the selected innovations as “only those proposals that are **focused** on the 12 acres of Quayside” (Waterfront Toronto 2019g - emphasis added). It provides some examples of these including, adaptive signal priority, heated pavement, real-time mobility management, thermal grid, electrical grid, weather mitigation, modular pavement, mass timber construction, a Care collective etc.

There are problems with developing an Innovation Plan as a subset of Sidewalk Labs ideas. First, the ideas are Informed by Sidewalk Labs’ commercial interests and transactional approach to smart city design. By accepting the parameters set by Sidewalk Labs, and the language used to describe developments as well as the details of many of the Quayside initiatives, Waterfront Toronto has essentially “bought the package.”

Second, in accepting Sidewalk Labs' framework, Waterfront Toronto is agreeing that subsequent expansion to other parts of the waterfront is built into the plan.

## Innovations Drive Expansion Beyond Quayside

Possible innovations that Waterfront Toronto will also consider in its Innovation Plan include a thermal grid, electrical grid, ubiquitous connectivity and mass timber high rise buildings. Sidewalk Labs has argued that these initiatives will only be possible to develop 'at scale'. In other words, over an area much larger than Quayside (Waterfront Toronto 2019b, 2019f, 2019g).

Some of that claim is self serving and misleading. For example, Sidewalk Labs asserts that ubiquitous internet connectivity "would only become financially sustainable at a larger service area, given the number of residents or businesses required to recoup the initial investment" (Sidewalk Labs 2019). There is enough evidence to suggest that is simply not the case.

However, for some other developments, the argument about scale is a logical one. It's hard to imagine a closed-loop district energy system that taps into waste heat to be commercially viable at Quayside alone. It's also hard to consider a timber factory being set up, on the waterfront to supply the timber frames for just the five building sites at Quayside.

Sidewalk Labs' housing proposals also depend on an expanded area. Its approach to building rental housing is, in part, to be achieved by what Sidewalk Labs refers to as "design for affordability." This includes smaller apartments, but it also relies on prefabricated building components, flexible partition walls, and modular kitchens and bathrooms that are built off site and dropped into the buildings. Most of the elements of Sidewalk Labs "design for affordability" are predicated on an area much larger than Quayside (Sidewalk Labs 2019).

Waterfront Toronto is being disingenuous when it argues that it will only look at ideas that are "focused" on the 12-acre site of Quayside. It knows that some of the initiatives require a larger scale and it actually supports those efforts. It uses the word "focused" rather than a term that would convey a more restricted meaning. It includes in its list of proposed innovations ones it knows will require an economy of scale. And it includes among them, initiatives such as the Urban Innovation Institute that it describes as a "priority" but which it acknowledges will not be located at Quayside.

Waterfront Toronto is caught in its own web. From the start of the RFP process, over two years ago, Waterfront Toronto had set out a set of RFP Objectives for Quayside, which in all likelihood, could not be achieved on the 12-acre Quayside site. In its public update document of November 19, Waterfront Toronto (2019d) repeats those "globally significant" and overly ambitious objectives as follows:

1. Create a globally significant demonstration project that advances a new market model for climate positive urban developments.
2. Establish a complete community that emphasizes quality of place and provides a range of housing types for families of all sizes and income levels within a robust mix of uses, including public open space, culture, recreation, vibrant retail, education-related activities and offices.
3. Provide a test bed for Canada’s clean tech, building materials and broader innovation driven sectors to support their growth and competitiveness in global markets.
4. Develop a new partnership model that ensures a solid financial foundation, manages financial risk and secures revenue that funds future phases of waterfront revitalization.

Is it really possible to achieve all that by building some apartments and condos, stores and offices on 12 acres of waterfront land? If not, then the alternative explanation points to more nods and winks accompanying Sidewalk Labs’ ambitions.

### **The Data Plan: When Assurances Aren’t Reassuring**

One of the most contentious issues in the MIDP was Sidewalk Labs approach to the collection and use of data. It was shaping up as a major stumbling block in granting Sidewalk Labs the public support it needed to continue as the lead developer. Waterfront Toronto wanted that controversy resolved. In the Halloween agreement, Waterfront Toronto (2019b) took what it considered the necessary steps to get the project back on track.

- It assured everyone that: “Waterfront Toronto, with its government stakeholders, will take the lead on data governance.”
- It consigned Sidewalk Labs’ “Urban Data Trust” to the garbage heap and prohibited Sidewalk Labs from ever using the term.
- It signalled its intention to develop a set of digital guidelines that would apply to any contractor at Quayside.

In addition, Waterfront Toronto indicated that Sidewalk Labs would release an updated Digital Innovation Appendix that would provide a mass of technical details and would clarify the company’s approach to technology enabled and digitally driven innovation. That 483-page report was released on Nov. 15, 2019 (Sidewalk Toronto 2019).

But like much in the Halloween Agreement things are not what they seem.

It is hard to be confident in the assurance that Waterfront Toronto will take the lead in data governance. Waterfront Toronto is not the organization that should be setting the ground rules for data governance. It doesn't have the experience, the expertise or the mandate to protect the public interest on matters of data collection, use and citizen privacy issues. By becoming partners with Sidewalk Labs, Waterfront Toronto has abandoned its independence and, in the process, its claim to represent the public interest.

It is also difficult to accept that Sidewalk Labs had an epiphany on the road to the Digital Appendix. In the space of a few months the company has gone from the data grabbing behemoth of the MIDP to a model of corporate social responsibility, an advocate of 'digital restraint' and a champion of personal privacy. That's how the company portrays itself in the Digital Innovation Appendix.

It could mean that Sidewalk Labs has decided that it doesn't really need to collect a whole lot of personal information. Many of the innovations in the development will be provided by third parties and they will be the ones collecting data. It has its sister company, Google to collect personal data in all the ways that Google already does. And its new spin-off, Replica, is already pioneering the development and use of synthetic data.

In the short term what is at stake on the waterfront is more important than a personal data grab. What Sidewalk Labs needs is a reliable, accessible and integrated data system (infrastructure, facilities, public space, etc.) that it can monetize through apps and data stream analysis.

What is critical from Sidewalk Labs' perspective at this stage of smart city development is to ensure that as much data as possible is collected, the data can be 'trusted' and it is shared by the companies involved.

This goes some way to explain why Waterfront Toronto's prohibited use of the 'Urban Data Trust' the concept has re-emerged in Sidewalk Labs Digital Appendix. It is now called a 'Collaborative Data Hub'. And Sidewalk Labs suggests it could be housed at the proposed Urban Innovation Institute to be located outside Quayside on Villiers West (Sidewalk Toronto 2019).

### **The Partnership that Changed Waterfront Toronto**

In 2017 Waterfront Toronto sought a new type of partnership for its ambitious plan to transform Toronto's eastern waterfront into a world-renown technological experiment. It wanted a corporate partner that would be more than the usual real estate developer. Facing an uncertain future, a mandate that was expiring and a lack of ongoing funding, Waterfront Toronto wanted a

partner operating at a global level that could provide high-tech city-building innovations and who had deep pockets.

But in entering into a partnership with Sidewalk Labs, Waterfront Toronto has had problems from the outset. The announcement of the project, the Request for Proposals, the selection process of a partner, the roles and responsibilities of each of the parties, the involvement of different levels of governments, and, of course, the ways that that data would be collected and used were all veiled in ambiguities, elusiveness and secrecy.

All of these problems have had major implications as the project has unfolded. First was the controversy surrounding relationships between senior members of the Government of Canada and Sidewalk Labs. People wanted to know who was promoting the project and what were their connections with Waterfront Toronto (Flynn and Valverde 2019). Then came major issues with the Request for Proposals. It was alleged that Sidewalk Labs was given the inside track on the RFP, and that the process for evaluating the short-listed firms was rushed and favoured Sidewalk Labs (Goodman and Powles 2019) and Haggart 2019). Members of Waterfront Toronto's Board of Directors resigned because of irregularities in this process (Rider 2018, Donovan 2018). And the Auditor General of Ontario cited significant shortcomings in the selection process (Office of the Auditor General of Ontario 2018). As if this were not enough, the Canadian Civil Liberties Association had initiated legal proceedings claiming that Waterfront Toronto does not have "the jurisdiction to embark upon an electronic and data surveillance project with the biggest data collector on the planet" (Canadian Civil Liberties Association 2019).

By the end of the first round of public hearings on the Quayside, it was clear that there was growing skepticism and outright opposition toward Waterfront Toronto). Had Waterfront Toronto, a public corporation, been so compromised by its funding and innovation partnership with Sidewalk Labs that it could not serve its primary function to develop waterfront lands to enhance the city's best interests? Would the future of the eastern waterfront be guided by the interests of a global corporation? Who would be protecting the public's interests in the massive waterfront development proposals?

These fundamental questions about Waterfront Toronto's partnership needed to be resolved, but, unfortunately, the Agreement does not satisfactorily address them.

The partnership between Sidewalk Labs and Waterfront Toronto has major implications for the institution that is Toronto's primary waterfront planning authority. Waterfront Toronto, it will be recalled, has a 20-25-year mandate, which began in 2001, from three levels of government. With the end of its current mandate in sight, Waterfront Toronto began considering what to do when the mandate ended. Waterfront 2.0, as the future period became known, included alternative business models and strategies for how Waterfront Toronto could generate revenue streams when government funding ended. It seems as though Waterfront Toronto decided to enter into the

partnership with Sidewalk Labs not only to develop the particular Quayside project, but also to fulfill crucial institutional needs for future funding (Waterfront Toronto 2016).

Waterfront Toronto's reliance on its jointly generated future revenue streams distorts its ability to have anything like an arms-length relationship with Sidewalk Labs. This dependency relationship has already taken hold as seen in the Agreement.

The Agreement indicates the parties will establish a framework through a "good faith" working relationship to make sure that Waterfront Toronto will receive its fair share of the expected and considerable revenues. In a strange bit of optimism, the parties agree to "continue" to work in good faith and that the new framework can be incorporated into a completed plan and evaluated by March 31, 2020 (now May 20, 2020). Relying on "good faith" with Google's sister corporation, a globally indicted company, defies the history of the working relationship.

But the more important question is this. While Waterfront Toronto and Sidewalk Labs are negotiating revenue sharing agreements from Intellectual Property and Data Ownership who is left to protect the public interest? That interest has more to do with building a vibrant and affordable community and less with future revenue streams.

The Halloween Agreement did nothing to clarify the roles of each partner. Who will be the real estate developer, the technology developer, the urban planner, and the vendor? At one level of the Agreement, Waterfront Toronto seems to be trying to regain its role in the partnership.

At another level, the partnership can be seen as already having decisively transformed Waterfront Toronto. In the MIDP, Sidewalk Labs charged audaciously into the role as lead real estate developer and relegated Waterfront Toronto to a subordinate, junior position. Waterfront Toronto, understandably, bristled at such treatment, and used the Agreement to reposition itself as the key player. But that effort was of limited success because over the two plus years of the development process Waterfront Toronto had become dependent on Sidewalk Labs. While the Agreement tried to rebalance the relationship between the two partners it also made clear that Sidewalk Labs had successfully locked in its vision so that Waterfront Toronto would do whatever was necessary to follow along.

A case in point. The Agreement indicates that Waterfront Toronto will advocate for the establishment of special government task forces to support implementation of development on Quayside (Waterfront Toronto 2019b). These taskforces will take the place of Sidewalk Labs previously proposed management authorities. Surely, it is not prudent for the City to establish government task forces to implement special development regulations for a 12-acre site.



It seems that Waterfront Toronto is ambiguously slipping between facilitator and regulator of development -- a dangerous position, indeed, for the public's interests. A prime example of this confusion is the way the Quayside lands are being valued. Waterfront Toronto was continuing its fundamental business model of privatizing the waterfront by selling publicly owned lands. Early Quayside plans indicated that the sale-price of 12-acre site was providing Sidewalk Labs with a huge discount. Supposedly, this problem is being rectified in the Agreement, where it states that \$590M is the fair market price of the land. But, the inclusion of the crucial phrase, "land valuation **begins** with fair market value" indicates that adjustments to that initial price are envisioned. Unfortunately, we have only minimal information about the bases for those adjustments. The Agreement says that the adjustments will be subject to infrastructure investments that each corporation will make (Waterfront Toronto 2019b).

A final comment on how the balance of power between Sidewalk Labs and Waterfront Toronto is shaping up in the partnership. Sidewalk Labs is undertaking a strategy to bring other institutions and corporations into its orbit to ensure that it is able to generate future profits from waterfront developments. In November of 2019, Sidewalk Labs signed an agreement with George Brown College, which has a significant waterfront presence, "to work together and explore projects that relate to innovative community programming, including opportunities to enhance digital literacy and technology skills" (George Brown College 2019). And with even more potential to generate revenue, Sidewalk Labs has taken the next steps to establish,

## WHO IS SIDEWALK LABS?

Sidewalk Labs, created in 2016, is a sister company of Google that has never designed and built a city project – never mind a neighbourhood that stretches for 200 acres – but it is spending millions to woo Toronto and put in place the pieces for a smart city offensive.

Sidewalk Labs subsidiaries (Sidewalk Labs 2019b).

- Replica – to provide public agencies, land developers, etc. a complete sense of city movement patterns. A new spin-off company
- Cityblock – to provide health care
- Intersection – to provide “*media products that natively weave into people’s lives as they journey through public spaces...strategically placed .... in well-traveled locations on city streets, in transit systems, and at airports*”
- Flow – to identify gaps in public transit or bottlenecks in traffic
- Coord - analyzes, shares, and collects curb data.
- Sidewalk Infrastructure – to develop “technology enabled infrastructure”
- AMP robotics – to sort recyclable material

Sidewalk Labs is quickly expanding in Toronto.

- Collab - prototype partnering Sidewalk Labs and Digital Public Square (Munk School of Global Affairs) to “help people participate from anywhere, at anytime”. (Collab 2019)
- 10 grants of between \$10,000 and \$15,000 to research teams at several universities in Toronto and the surrounding area, including OCAD, the University of Toronto, McMaster, Waterloo and Ryerson, to explore how to modify human behaviour (Toronto Star, Vincent 2018)
- Sidewalk Labs partnered with the Thorncliffe Park Women’s Committee to track how people are using a park in the neighbourhood (Financial Post, McLeod 2018)
- Joint Project with George Brown College to work together to explore projects that relate to community programming, including opportunities to enhance digital literacy and technology skills (George Brown 2019).
- Sidewalk Labs is establishing Quayside Venture Partners with Plaza Ventures to invest in Canadian technology companies focused on traffic congestion, housing affordability and sustainability (Plaza Ventures 2019).

Quayside Venture Partners with Plaza Ventures. This joint venture fund will invest in Canadian technology companies focused on what it calls, "urban challenges" such as traffic congestion, housing affordability and sustainability (Plaza Ventures 2019). So, it seems as though Sidewalk Labs is establishing wide-ranging linkages in the city that will surely enhance its power in the partnership with Waterfront Toronto.

### **Who wants to live at Quayside?**

Waterfront Toronto (2019) describes its role in these words:

We are the public advocates and stewards of Toronto's waterfront revitalization...Our mandate is to transform our city's waterfront by creating extraordinary new places to live, work, learn and play.

And yet according to the report of the public consultations on Sidewalk Labs' proposal, Toronto residents are not convinced that Quayside would be an attractive community to live in. Respondents to an online question about the development were pretty evenly split as to their desire to live there. In addition, the majority of those participating in a series of public consultations were either opposed to the development or skeptical about the plans (Waterfront Toronto 2019f).

It is useful to step back from all the future-tense innovations at Quayside (e.g., heated sidewalks, automated rain awnings, musical swings or robot deliveries and driverless cars) that divert attention from what will actually be built on the site. As Sidewalk Labs' (2019) has indicated:

The site consists of 2.65 million square feet of developable space, 10 buildings across five sites that mix residential and commercial units. ..At full build, Quayside could house roughly 4,500 residents...as well as host roughly 3,900 jobs.

Sidewalk Labs refers to ten buildings, but they are, in fact, ten building complexes or compounds, some with more than one tower and some stretching over a city block. Sidewalk Labs wants to build 30 storey, mixed-use rental buildings at the back end of the parcel along the Gardner Expressway. In these buildings there will be a range of apartments including the micro-sized apartments and dormitory pod-style units that Sidewalk Labs favours. At the waterfront, there will be smaller, more human scale buildings, grouped alongside a waterfront cove with incredible views that will be available for those who can afford them (Sidewalk Labs 2019).

Sidewalk Labs has indicated that it plans to build more commercial units than currently anticipated in the City's Precinct plans for the area. Sidewalk Labs intends to lower the ratio of residential to commercial buildings by a considerable amount. According to the MIDP "Sidewalk Labs' development plan proposes over six times the amount of non-residential space required in Quayside" (Sidewalk Labs 2019).

The MIDP proposes "open space" rather than "public space." It reduces the amount of public parkland and increase open space such as sidewalks, buffers, and courtyards. It reduces the width of the public waterfront walkway when compared to existing plans. These plans imply more privatization (e.g., underground waste transport system) and efforts to turn public spaces such as parks into digital revenue streams for itself (Sidewalk Labs 2019).

It proposes to partner with schools and libraries to develop Sidewalk Labs' controlled learning opportunities.

It proposes to redefine a health centre as a Care Collective by layering it with a digital blanket.

It proposes to set up a Civic Assembly, which isn't a gathering of people, but a physical space which can be rented out.

It proposes more opportunities for pop-up stores on short leases (featuring the gig economy for retail entrepreneurs).

It proposes an affordable housing program that, on examination, isn't affordable.

It proposes a construction employment initiative that offers limited opportunities to 'vulnerable' groups.

It proposes to develop and sell apps that can be used to rent recreational space, find someone to share an apartment with and encourage, more ride hailing services and more gig economy jobs.

### **Because it's still Google\***

Because Sidewalk Labs is a sister company to Google and a subsidiary of Alphabet, doing business with Sidewalk Labs means doing business with Google and Alphabet. As such, the company's size and market power matters. As does the company's actions and behaviour. Alphabet is one of the largest and most powerful multinationals in the world. It has recently joined the exclusive ranks of four companies with a market value of \$1 trillion USD. (Boffey 2020). In the year from September 2018 to September 2019 it chalked up annual revenues in excess of \$150 billion USD (Macrotrends 2020). The company has enormous political and economic power. Google controls about 90 percent of the internet searches worldwide. The company's search practices exert a tremendous influence over how people see their world.

\* This section has been adapted from D. Robertson, 'Ten Reason to Say No,' <http://goodjobsforall.ca/>.

The Google business model rests on its data collection. Most of us don't understand the algorithms that turn our personal data, search histories, location, shopping histories, product preferences, likes and dislikes, photos of friends and families into a massive data resource that can be mined, manipulated and monetized. But increasingly the ways that data is collected and used can influence our political system and democratic practices.

In the last few years Google has been judged to restrict competition. Here are a few examples:

- The European Union has fined Google on three separate occasions. First in 2017, Google was fined \$2.7 Billion USD over the company's unfair favouring of its own products and services in internet search results (Boffey 2017). In 2018, the European Union fined Google \$5.1 billion USD for abusing its power in the mobile phone market (Satariano and Nicas 2018). Last year it was fined \$1.68 billion USD for abusing its position in online advertising (Satariano 2019)).
- On Dec 20, 2019 France's competition watchdog fined Google \$218 million for abusing its market power over its advertisers (Associated Press 2019).
- On September 9, 2019, 50 US states and territories launched an investigation into Google's monopolistic corporate practices. And the US Justice department has reportedly launched a specific antitrust investigation against Google (Romm 2019).

It is a strange time for Toronto to be doing a deal with a Big Data company that is known to restrict competition. In its bid to capture smart city technologies and revenues Google or Alphabet could well force Canadian technology companies to the sidelines, take them over or capture them as dependent contractors.

It is also the case that some of Google's practices have raised serious moral and ethical concerns. Here are a few:

- The Wall Street Journal reported that an office of the US Department of Health and Human Services will investigate Google about its use of patient data by way of a major health firm and accessing their data without the patients' notification or consent. Also, the Financial Times in the U.K. reports that popular health websites are sharing sensitive data with firms including Google (Copeland, Mattioli and Evans 2019).
- Amnesty International, in a new report, said that Google and Facebook should be forced to abandon their "surveillance-based business model" because it is "predicated on human rights abuse" (Amnesty International 2019).

- In Sept 2019, Google was fined \$170 million US by the Federal Trade Commission and New York's Attorney General because it knowingly and illegally harvested personal information from children and used it to profit by targeting ads about them (Singer and Conger 2019).
- Google developed a secret initiative called Project Dragonfly for internet searches in China that blocks websites and search terms in accordance with government censorship. Google ended the project only after public exposure and an employee campaign that indicated the firm ignored human rights abuses and suppressed free speech (Su 2019).
- Project Maven, one of Google's secret military contracts with the Pentagon, was not terminated until thousands of its employees protested. Project Maven was an effort to apply artificial intelligence to military drones to enhance target identification that could lead to robotic weapons (Wakabayashi and Shane 2019).
- A few years ago, California successfully sued Google and other BIG Data companies for collusion to suppress wages (Hustad, L. 2015).

Some people see in these events evidence of moral and ethical lapses while others see that, in an age of surveillance capitalism, Google is just being Google. Either way it is a strange time for Toronto to be turning the development of our waterfront over to the Google group of companies.

### Summary and Conclusion

Waterfront development in Toronto has been a contentious process for well over one hundred years. The waterfront has been, and continues to be, a "terrain of opportunity" where economic regimes struggle to establish beachheads. In the most recent wave of development, Google's sister corporation, Sidewalk Labs, is proposing a smart city as a prototype development for wealth accumulation not only in Toronto, but also for applications throughout the world.

### Waterfront Toronto's Next Steps for Quayside

At this time, the way the Waterfront Toronto describes the next steps in Quayside's development process seem to be unsettled - this is not at all surprising given the history of the project. But according to Waterfront Toronto's November 19th *Public Update* the next steps will be:

**December/January** - The new Innovation Plan is made public

**January 2020** - Second Round of public consultations on the Innovation Plan

**January - March** - Technical Evaluations on the Innovation Plan

**March 31, 2020** (Now May 20, 2020)- Waterfront Toronto's Board decides on Development Plan

**April 2020** - City begins public consultations on Development Plan

**December 2020** - City, Province and Feds decides on Development Plan

However, the release of a new Innovation Plan is already overdue, so it is unclear to what extent the other scheduled events may be delayed. Stay tuned.

What is clear from the Provincial Statutes establishing Waterfront Toronto is that it must receive approval from the City, Province and Feds for its development plans.

The signing of the October 31, 2019 letters of concurrence, the Halloween Agreement, continues the charade that Waterfront Toronto and Sidewalk Labs have entered into a partnership for the benefit all Torontonians. Both parties to the Agreement are masquerading as good corporate citizens working to improve the quality of city life. In reality, however, they are intent on achieving their corporate objectives through details disguised in development agreements. In our paper we have attempted to unmask the Halloween Agreement and related documents and to make clear that:

- Waterfront Toronto has entered into a partnership with Sidewalk Labs (and indirectly with Google) that challenges its authority and power to continue to act as the city's lead waterfront development authority,
- Sidewalk Labs' plans for the eastern waterfront will not be limited to a 12-acre site,
- Google's Canadian headquarters and an Urban Innovation Institute are slated to be located on the most desirable site on publicly constructed land on Villers Island,
- Data collection and ownership in the district are fraught with uncertainty and risks,
- Surveillance of people through a dense network of high-tech sensors will confront the privacy of all who dare to enter into, or live in, the district, and
- Governance and regulation of waterfront development is headed toward corporate control and privatization.

Quayside has become far more than a 12-acre land development project on the city's waterfront. It has become a major urban site where tensions between democratic control and private development are being played out (Robertson 2019). And its development has become a proxy for competing visions of the future city (Zuboff 2020, Flynn and Valverde 2019, Goodman and Powles 2019, Wylie 2019, Bliss 2018).

Big Business originated, shaped and has driven the notion of a smart city. And some of the largest technology companies in the world are looking to cities as the next source of profits. But there is another vision of a city, one that argues for a participative, open, and inclusive model of community development. On the one hand the smart city is urban development "from the internet up," but on the other, it could be a community driven model of a resilient city with a technology assist.

It is time for Torontonians to speak up for a democratic, affordable, inclusive, environmentally sustainable, resilient and liveable city.

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