



**STAFF REPORT
ACTION REQUIRED
Confidential Attachment**

**Supplementary Report - Licence Agreements For TTC
Commuter Parking Lots on Hydro Corridor at Finch,
Islington and Kipling Subway Stations**

Date:	February 6, 2011
To:	City Council
From:	Chief Corporate Officer
Wards:	23, 24 (Willowdale); 5(Etobicoke – Lakeshore);
Reason for Confidential Information:	Security of the Property of the Municipality
Reference Number:	P:\2012\Internal Services\RE\Cc12012re (AFS14941)

SUMMARY

On the agenda of City Council meeting scheduled for February 6, 2012 is Item GM10.7 entitled "Licence for Finch Station TTC Commuter Parking Lot on Hydro Corridor". Recent developments in the course of the negotiation of the Licence document for that matter and for four other TTC commuter parking lots on Hydro Corridor lands that normally would have been approved by standing delegated authority have resulted in the need for a supplementary report.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council grant authority to enter into Licence Agreements for the Islington Subway Station (east and west lots) and the Kipling Subway Station (north and south lots) with Her Majesty The Queen In Right Of Ontario as represented by

- The Minister Of Infrastructure and/or Ontario Infrastructure And Lands Corporation, or any related or designated entity (the "Licensor"), substantially on the terms and conditions as set out in Appendix "A" to this report, subject to such further revisions and other terms and conditions as may be deemed appropriate by the Chief Corporate Officer and in a form satisfactory to the City Solicitor;
2. The Chief Corporate Officer be authorized to administer and manage these Licences including the provision of any consents, approvals, notices and notices of termination, provided that the Chief Corporate Officer may, at any time, refer consideration of such matter (including their content) to City Council for its determination and direction;
 3. City Council adopt the confidential instructions to staff and recommendation in Attachment 1 of this report; and
 4. The confidential instructions to staff and recommendations in Attachment 1 to this report remain confidential.

Financial Impact

The total expenditure for these four 5 year Licences commencing from January 1, 2012 and expiring on December 31, 2016 will be \$2,458,653.85 net of HST including the City's share of the annual realty taxes or grants in lieu thereof, plus applicable HST, all as detailed in Appendix A. Funds are available in Cost Centre TT0010.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

Authority for the past agreements with Hydro for use of the commuter parking lots at Islington Subway Station (east and west lots) and Kipling Subway Station (north and south lots) can be traced back through the exercise of a lengthy series of Council as well as standing delegated authorities. The licences have been in overhold status for a number of years.

Since the Licensor has advised that the property owner of these Lands is now the Province as represented by Ontario Infrastructure And Lands Corporation and that new licence agreements must be entered into with the new property owner, it is appropriate to obtain fresh authority to enter into licence agreements for these four parking lots.

COMMENTS

Negotiations on the terms of these licences have been on-going for some time as a result of differing opinions on the value of the Licence Fee and the treatment of property taxes. As a result of these negotiations, the Licensor has agreed to waive back rent for the East and West parking lots at Islington Subway Station from October 1, 2003 to April 30,

2007 and for the North and South parking lots at Kipling Subway Station from March 1, 2004 to April 30, 2007 and to not increase the proposed rates from the 2007 valuation period, as well as to forgo any rate increase during the over-holding period.

The respective Licence Fees and back rents payable by the City to the Licensor are considered to be fair and reasonable, and reflect market value according to market research and valuation conducted by Real Estate Services Division staff. On December 14, 2011, the TTC Board approved the proposed licence terms and conditions, and has set aside a budget to fund the subject fees.

Such new licence agreements for the Islington and Kipling lots would have been approved utilizing standing delegated authority to staff but for the issue discussed in the Confidential Attachment to this report. As a result of the negotiation of the Licence document itself, terms demanded by the Licensor bring the Licences for the commuter lots at Islington and Kipling Subway Station outside of the parameters of the delegated authority. Accordingly, Council direction is being sought. The Confidential Attachment to this report addresses those issues.

This report is a companion report to GMC 10.7 before Council today and both reports are to be considered together.

CONTACT

Joe Casali
Director, Real Estate Services
Tel: (416) 392-7202
Fax: (416) 392-1880
jcasali@toronto.ca

SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix "A" – Major terms and conditions For Four Separate Licences
Appendix "B" – Location Maps for Four Parking Lots at Islington and Kipling Stations

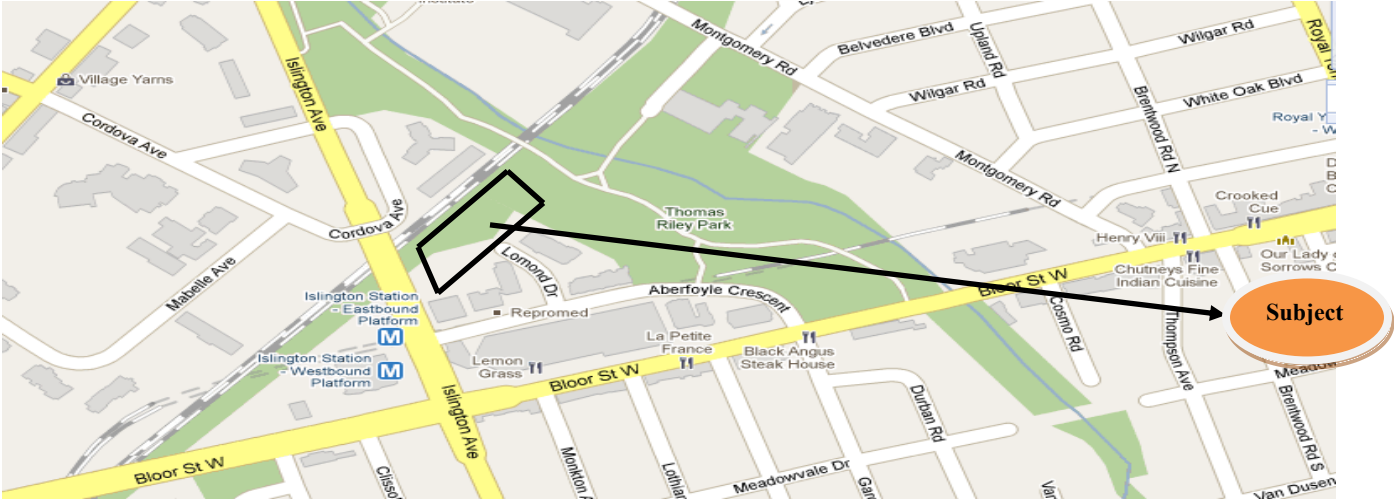
Attachment 1 – Supplementary Confidential Information

Appendix “A”
Licences for TTC Commuter Parking Lots on Hydro Corridor
Islington East, Islington West, Kipling North and Kipling South
Major Terms And Conditions

	Islington Subway Station East	Islington Subway Station West	Kipling Subway Station North	Kipling Subway Station South
Licensed Area: (Approximately)	2.133 acres	1.921 acres	3.042 acres	5.521 acres
Annual Licence Fee:	\$64,390.00	\$57,900.00	\$91,830.00	\$166,665.00
(Plus up to 75% of the annual realty taxes or grants-in-lieu thereof)	\$3,267.78 p.a.	\$2,942.99 p.a.	\$4,660.37 p.a.	\$8,458.23 p.a.
Back Rent: (from May 1, 2007 to December 31, 2011)	\$33,055.00	\$77,807.00	\$123,208.00	\$223,562.00
Total for 5 year Licence:	\$371,343.90	\$382,471.95	\$605,659.85	\$1,099,178.15
Licensor:	Her Majesty The Queen In Right Of Ontario as represented by the Minister Of Infrastructure and/or Ontario Lands and Lands Corporation, or any related or designated entity.			
Term:	Five (5) years each commencing on January 1, 2012 and expiring on December 31, 2016.			
Renewal Rights:	To be negotiated, if applicable. A possible 5 year renewal is contingent on the parties renegotiating a mutually satisfactory licence fee and amounts in respect of the Licensee's respective contribution to taxes or grant-in-lieu of taxes in respect of each parking lot prior to December 31, 2016.			
Use:	<p>(a) The Licensed Lands are to be used as commuter parking lots for the Islington East and West Subway Stations and the Kipling North and South Subway Stations respectively.</p> <p>(b) Additional to licensing the Lands on an "as is, where is" basis, the Licence must acknowledge the priority of the existing subsurface easement rights of Hydro One Telecom Inc., and the primary rights of Hydro One Networks Inc. to use the Licensed Lands to operate a transmission or distribution system, and of all existing or future rights of use or secondary use or other rights entered into by the Licensor or Hydro One Networks Inc.</p>			

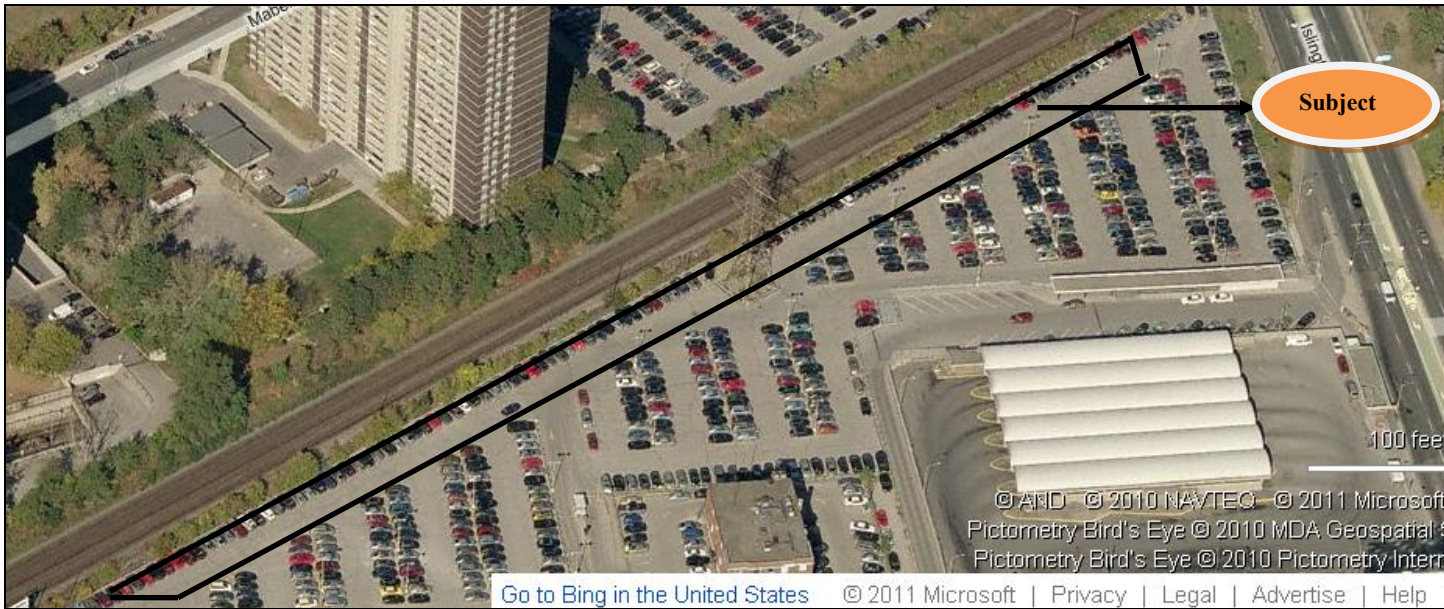
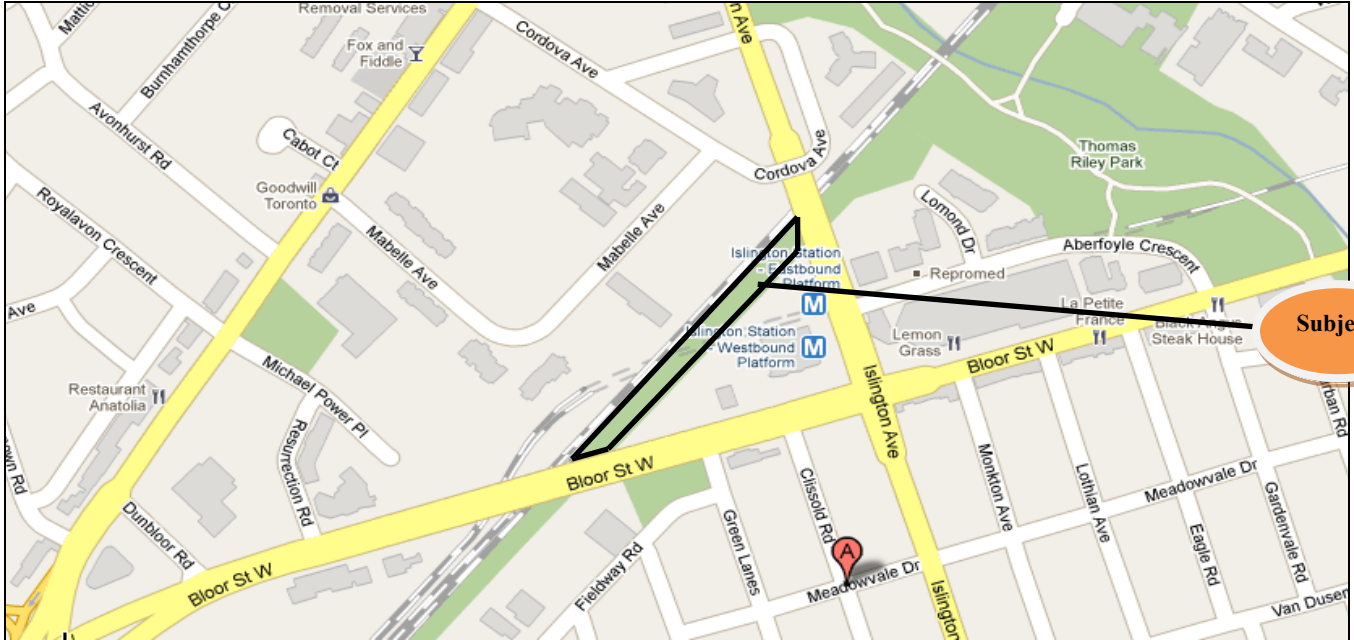
Early Termination:	Licensor has compensation-free right to terminate the Licence Agreement in whole or in part at any time on at least ninety (90) days prior written notice if: (a) Licensor considers all or any part of the Lands necessary or desirable for its works or the Licensor's Permittees or the transmission or distribution system(s) of Hydro One Networks Inc., or (b) the Licence in any way interferes with or impedes the right of Hydro One Networks Inc. to use the Lands to operate a transmission or distribution system.
Insurance:	The City to maintain a liability insurance policy satisfactory to the Licensor in the minimum amount of Five Million (\$5,000,000.00).
Documentation:	A mutually satisfactory Licence is to be negotiated. This Licence and all related documentation may contain such further revisions and other terms and conditions as are satisfactory to the Chief Corporate Officer in consultation with the Chief Property Development Officer of the TTC, and in a form acceptable to the City Solicitor.

**Appendix “B”
Location Map
Licence for TTC Commuter Parking Lot on Hydro
Corridors
Islington East**



Location Map Licence for TTC Commuter Parking Lot on Hydro Corridors

Islington West



Location Map Licence for TTC Commuter Parking Lot on Hydro Corridors

Kipling North



Location Map Licence for TTC Commuter Parking Lot on Hydro Corridors

Kipling South

