

**ATTACHMENT 1 – SUBWAY REAL ESTATE PROTOCOL MAJOR TERMS AND CONDITIONS**

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<p>Request to Acquire City Lands</p>	<p>Metrolinx shall identify all City Lands required for the Projects and shall advise the City and T.T.C. of such requirements, where T.T.C. infrastructure and assets are located in the vicinity of the City Subway Lands, by way of a Property Requisition Form. The land acquisitions required for each Project shall be identified at no later than the thirty percent (30 percent) design stage.</p> <p>The City will review Metrolinx requests for City Subway Lands and will determine if it wishes to retain ownership or other rights with respect to those lands, in particular if those lands have any proposed municipal purpose (including future development or redevelopment) or if those lands are income producing.</p> <p>If Metrolinx disagrees with the City's decision not to transfer particular City Subway Lands, or if Metrolinx cannot accommodate the City's request to retain particular rights within the City Subway Lands being transferred, the issue will be escalated to the dispute resolution protocol contained in the Protocol.</p> <p>Metrolinx's may exercise its rights under the <i>Expropriations Act</i> at any point, at which point the City can rely on all rights set out under the <i>Expropriations Act</i>.</p>
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<p>Acquisition of City Subway Lands</p>	<p>City Subway Lands that have been confirmed as available for disposition to Metrolinx shall be transacted as follows:</p> <ul style="list-style-type: none"> <li>• City Subway Lands that have no municipal purpose shall be transacted for nominal consideration</li> <li>• City Subway Lands that have a municipal purpose shall be transacted at fair market value, as determined by an appraisal in accordance with the terms of the Protocol</li> <li>• City Subway Lands dedicated as Public Highway and designated as Parks and Open Space Areas (as defined in Toronto's Official Plan) are deemed to have a municipal purpose as a result of such dedication or designation. Notwithstanding the municipal purpose, Metrolinx and the City have agreed to the following framework to determine the fair market value in connection with land requests from Metrolinx impacting such land types.</li> </ul> <p><b>i) Lands Not Requiring Replacement</b> (as determined by the City)</p> <ul style="list-style-type: none"> <li>• Permanent or temporary interests in any City Subway Lands currently dedicated as Public Highway that does not require replacement shall transact at nominal consideration; and</li> <li>• Temporary interests in any City Subway Lands currently designated as Parks and Open Space Areas shall transact at fair market value, determined in accordance with the existing zoning land value, subject to any agreement between the City and Metrolinx that establishes standard rates. Metrolinx will be required to compensate the City for any revenue losses incurred or interim programming or capital costs required as a result of any temporary real estate interest required.</li> </ul> <p><b>ii) Lands requiring replacement</b> (as determined by the City)</p> <ul style="list-style-type: none"> <li>• Any City Subway Lands deemed by the City as being income producing or identified for any current and future development or redevelopment related to a City municipal purpose shall transact at fair market value; and</li> <li>• Any City Subway Lands currently dedicated as (i) Public Highway that is required by Metrolinx on either a temporary or permanent basis, or (ii) Parks and Open Space Areas that is required by Metrolinx on a permanent basis, in each case, that requires replacement, as determined by the City, acting reasonably and with regard to existing policy and future infrastructure needs shall transact at fair market value.</li> </ul> <p><b>iii) Land Exchange</b></p> <ul style="list-style-type: none"> <li>• As an alternative for fair market value dispositions, Metrolinx may offer a land exchange agreement to transfer the subject City Subway Lands in exchange for other property owned by Metrolinx, provided that the City is satisfied with the land to be</li> </ul>
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	<p>exchanged by Metrolinx, in its sole discretion. The parties agree that properties with different market values may be exchanged in the same transaction, provided that the total consideration of the property interest(s) to be acquired by the City will be credited toward the total consideration of the property interest(s) to be acquired by Metrolinx and any outstanding balance is paid for by the appropriate party.</p> <p><b>iv) Conditions of Disposition of City Subways Lands</b></p> <ul style="list-style-type: none"> <li>The disposition of the City Subway Lands to Metrolinx would be at no net operating cost to the City or T.T.C. at the time of disposition, and be subject to existing City/T.T.C. infrastructure, assets and third party utility rights and subject to the City's Official Plan ("O.P.") with respect to City-owned lands designated as Parks and Open Space Areas or Green Space System.</li> </ul>
<p>City Public Highway Lands – Surface</p>	<p><b>i) Temporary Access</b></p> <ul style="list-style-type: none"> <li>Metrolinx will go through the existing City permit, licence and approval application processes and pay required fees per existing City by-laws or policies with respect to City Public Highway Lands - Surface.</li> </ul> <p><b>ii) Permanent Access</b> (following construction completion)</p> <ul style="list-style-type: none"> <li>The City will provide permanent surface stratified easements, for nominal value, with Metrolinx, subject to use by the City for emergency purposes and for City and T.T.C. use related to their infrastructure and assets. All costs associated with registration of such permanent easements will be paid for by Metrolinx.</li> </ul>

<p>City Public Highway Lands – Subsurface</p>	<p><b>i) Temporary Access</b></p> <ul style="list-style-type: none"> <li>The City will provide access/construction licences, for nominal value, to Metrolinx for temporary access to subsurface City public highway lands required in connection with the construction of tunnels and tunnel box structures for the Subways Program. The licenses will provide that City/T.T.C. assets and infrastructure and/or third-party utilities existing or permitted or applied for, as of the date of execution of the Protocol, will be accommodated by Metrolinx.</li> </ul> <p><b>ii) Permanent Access</b> (following construction completion)</p> <ul style="list-style-type: none"> <li>The City will transfer a permanent, exclusive subsurface stratified easement, for nominal value, to Metrolinx for the permanent placement of assets and infrastructure associated with the Subways Program. The easements will permit access by the City and T.T.C. for work related to its infrastructure and assets. All costs associated with registration of such permanent easements will be paid for by Metrolinx.</li> </ul>
<p>Lands required for Additional City Infrastructure</p>	<p>The Protocol includes terms related to real estate interests required to be transferred to the City for new City infrastructure work or upgrades/changes to City infrastructure requested by the City or the T.T.C. (the "Additional City Infrastructure"), at the City's or T.T.C.'s expense, which interests are to be owned by the City or T.T.C., for the purpose of facilitating construction coordination and advancing City capital projects in the vicinity of the Subways Program.</p> <p>For any third party property required to construct, operate and maintain Additional City Infrastructure, the City may acquire necessary real property interests or may request Metrolinx to acquire these properties on the City's behalf. The City will be responsible for all costs, including Metrolinx costs associated with such acquisition, ownership and disposition.</p> <p>For any Metrolinx-owned lands required for Additional City Infrastructure, the City will acquire necessary real property interests at fair market value.</p> <p>For City-owned lands required for Additional City Infrastructure, the City will grant a temporary licence for nominal value to Metrolinx to construct Additional City Infrastructure on the City's/T.T.C.'s behalf, and the City/T.T.C. will be responsible for all costs related to the licence, including any environmental testing and/or restoration required.</p>

<p>Short Term Occupancy on City Property</p>	<p>The City and Metrolinx will go through the existing process (Omnibus Permission to Enter Agreement or through applicable permits and licences) for access rights required for Metrolinx to perform necessary site due diligence.</p>
<p>City and T.T.C. Approval Processes</p>	<p>Metrolinx shall:</p> <ul style="list-style-type: none"> <li>• Provide the City/T.T.C. the ability to review the Subways Program designs where it impacts City/T.T.C. infrastructure;</li> <li>• Construct City/T.T.C. infrastructure to the basic standard or City/T.T.C. standards as agreed to by the parties;</li> <li>• Abide by all applicable laws, permits and approvals of general application required by the City and third parties for work on City/T.T.C. infrastructure; and;</li> <li>• Indemnify the City/T.T.C. from damages, losses, etc. directly arising out of the use of City lands and damage to the City/T.T.C. infrastructure and assets caused by Metrolinx or anyone for whom it is responsible at law.</li> </ul>
<p>Land Appraisals</p>	<p>Save as is set out above, any real estate interests in City Subways Lands to be transferred to Metrolinx will be transferred at market value. Metrolinx shall obtain an independent appraisal, based on the terms of reference set out in the Subways Protocol.</p> <p>The City shall undertake a peer review of the appraisal and any disputes as to value shall be determined in accordance with the Dispute Resolution Process.</p>
<p>City Acquisition of Metrolinx / Third-Party Lands</p>	<p>Metrolinx is required to transfer certain land interests to the City at no cost for the relocation, replacement and/or construction of City and other T.T.C. infrastructure such as utilities required as a result of the Subway Program.</p> <p>Prior to the transfer of these interests to the City by way of fee simple transfer or permanent easement, Metrolinx must provide as-built drawings of the infrastructure, fulfil requirements within the Commissioning and Acceptance Protocol for the handover of City infrastructure (which Protocol will be developed by the parties), and comply with the environmental obligations as outlined below. Upon acquiring these land interests, the City will provide Metrolinx a nominal licence to enter these lands for the purposes of Metrolinx carrying out its warranty requirements.</p>

<p>Environmental Obligations</p>	<p><b>i) Metrolinx-owned and other Third-party Lands required for City Infrastructure</b></p> <ul style="list-style-type: none"> <li>Metrolinx must demonstrate that the soil and ground water quality conditions comply with all current environmental law and provincial regulations and standards based on the City's or T.T.C.'s intended use of the lands. Metrolinx will demonstrate such compliance by completing Environmental Site Assessment(s) ("E.S.A."), at its sole cost. If the results of the ESA indicate that additional work is required, Metrolinx will also complete a risk assessment and file a record of site condition ("R.S.C.") for the subject lands, prior to the City taking possession. All environmental work will be reviewed by the City's independent peer reviewer. Metrolinx will fund the City's peer review to a maximum cost of \$50,000.00 per parcel for standard properties, and \$100,000.00 where a risk assessment or R.S.C. is required.</li> </ul> <p><b>ii) City Subway Lands</b></p> <ul style="list-style-type: none"> <li>Prior to occupation of the City Subway Lands, Metrolinx shall obtain, at its sole costs, an initial E.S.A. On termination or expiration of the licence or temporary easement and completion of work in permanent easements, Metrolinx will provide an exit E.S.A. demonstrating that the site conditions of the City Subway Lands are in the same condition as in the initial E.S.A. Both the initial and exit assessments shall be conducted per existing legislation and will be subject to the City's independent peer review (with costs as set out above), at Metrolinx's sole cost.</li> <li>If the exit E.S.A. indicates contamination not disclosed or anticipated within the initial E.S.A., Metrolinx will remediate all contamination and restore the conditions of the City Subway Lands to the same environmental conditions as outlined in the initial E.S.A. Where the City and Metrolinx agree that it is not feasible to restore the current conditions to the initial E.S.A., Metrolinx will conduct a due diligence risk assessment to the City's satisfaction (but not file an R.S.C.) and the City's independent peer reviewer, at Metrolinx's cost.</li> <li>These Metrolinx environmental obligations do not apply to City Subway Lands that are to be acquired by Metrolinx by fee simple transfer.</li> </ul> <p><b>iii) Small Parcels</b></p> <ul style="list-style-type: none"> <li>For parcels of Metrolinx-owned and other Third-party Lands required for City infrastructure and City Subway Lands less than 100 square metres or parcels with an average width less than one metre, Metrolinx is not required to undertake environmental due diligence.</li> </ul>
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	<ul style="list-style-type: none"> <li>All costs associated with this section are the sole cost of Metrolinx.</li> </ul>
<p>Permits, Licences and Approvals</p>	<p>For infrastructure and assets pertaining to the Subways Program owned by Metrolinx (the "Metrolinx Program Infrastructure") not located on City-owned land, Metrolinx will comply with City/T.T.C. permits and approvals processes and work cooperatively with the City and T.T.C., but in the event of a dispute Metrolinx has the final approval authority of the Metrolinx Program Infrastructure in keeping with its Crown immunity.</p> <p>If Metrolinx does not meet the conditions of any City/T.T.C. permit or approval, the City/T.T.C. are not required to issue permits or approvals and Metrolinx will assume all liability for the work.</p> <p>For work related to City or T.T.C. Infrastructure, Metrolinx will obtain all permits, licences and approvals of general application required by the City, T.T.C. and all third parties at its sole expense and will ensure compliance with all federal, provincial and municipal laws in force in the Province of Ontario. For work on City-owned land, Metrolinx intends to ensure that nothing it does on such lands puts the City offside any of the City's or T.T.C.'s legislative obligations. Metrolinx will indemnify the City and T.T.C. for damages, losses, etc. directly resulting from any of its actions on such lands including any actions that breach federal, provincial or municipal laws binding on the City and T.T.C.</p> <p>Approvals related to any Transit Oriented Communities development applications will be dealt with separately outside the Subways Protocol.</p>
<p>Resourcing</p>	<p>Metrolinx shall be responsible for all reasonable City and T.T.C. costs associated with the implementation of the Subways Protocol, aside from costs incurred for property required for Additional City Infrastructure.</p>

<p>Dispute Resolution</p>	<p><b>i) Metrolinx required City Subway Lands</b></p> <ul style="list-style-type: none"> <li>• A dispute resolution process may be commenced by any of the parties relating to Metrolinx required City Subways Lands which the City deems necessary for municipal purposes. As a first step, resolution shall be sought through negotiation between the Director, Transaction Services for the City and the Director, Property Acquisitions for Metrolinx. Should resolution not be achieved, the dispute shall be referred to the existing governance framework between the City, T.T.C. and Metrolinx. Disputes which cannot be resolved by the Subway Steering Committee or Transit Program Committee will be referred to the Transit Executive Committee for resolution.</li> </ul> <p><b>ii) City Subways Lands - Valuation Related Disputes</b></p> <ul style="list-style-type: none"> <li>• The Dispute Resolution provisions in the Subways Protocol provides that if disputes relating to the consideration to be paid by Metrolinx to the City for City Subways Lands cannot be resolved through escalation, the dispute shall be determined in accordance with the Expropriations Act.</li> <li>• Metrolinx's may exercise its rights under the Expropriations Act at any point, at which point the City can rely on all rights set out under the Expropriations Act.</li> </ul>
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