

Authority: Board of Directors of CreateTO Item [insert Item no], as adopted by the Board of Directors of Create TO on [insert date]

Board of Directors Of Create TO

By-Law No. -2020

RA12.1

Attachment 1

To amend By-law No. 1-2018 to enable remote electronic participation in board meetings during an emergency.

WHEREAS the Board of Directors of CreateTO (the "Board") is a city board and local board of the City of Toronto established under the authority of section 141 of the *City of Toronto Act, 2006* ("COTA") and Chapter 215 of the City of Toronto's Municipal Code; and

WHEREAS subsection 189(2) of COTA requires that the Board pass a procedure by-law for governing the calling, place and proceedings of meeting, and the Board adopted By-law No. 1, being a By-law to govern the proceedings of the Board of Directors of CreateTO, on May 17, 2018, which By-law was approved by City Council on June 26 – 29, 2018; and

WHEREAS section 190 of COTA requires that meetings of the Board will be open to the public unless an exception under subsection 190(2), (3) or (3.1) applies; and

WHEREAS subsection 189(4) of COTA states that a procedure by-law of a local board may provide that a board member can participate electronically in a meeting which is open to the public to the extent and in the manner set out in the by-law provided that any such member shall not be counted in determining whether or not a quorum of members is present at any point in time; and

WHEREAS subsection 189(4.1) of COTA states that a procedure by-law of a local board shall not provide that a member the local board can participate electronically in a meeting which is closed to the public; and

WHEREAS on March 19, 2020, Bill 187, *Municipal Emergency Act, 2020* ("Bill 187"), was enacted by the Legislative Assembly of Ontario and received Royal Assent; and

WHEREAS Bill 187 amended COTA to state that, where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act* (the "Act"), a procedure by-law of a local board may provide that (a) despite subsection 189(4), a member of a local board who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and (b) despite subsection 189(4.1), a member of a local board can participate electronically in a meeting that is closed to the public; and

WHEREAS Bill 187 further amended COTA to state that a local board may hold a special meeting to amend its procedure by-law for the purposes of permitting electronic participation in meetings as described above during any period where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the Act, and despite subsection 189(4), a member participating electronically in such a special meeting may be counted in determining whether or not a quorum of members is present at any time during the meeting; and

WHEREAS COVID-19 is present within the City of Toronto, COVID-19 is a disease that is

readily communicable from person to person, carries a risk of serious complications and may result in death, and the spread of COVID-19 has been declared a pandemic by the World Health Organization; and

WHEREAS, on March 17, 2020, an emergency was declared, by means of Order in Council 518/2020 for purposes of section 7.0.1 of the Act, due to the health risks to Ontario residents arising from COVID-19; and

WHEREAS, on March 23, 2020 an emergency was declared by the Mayor of the City of Toronto for purposes of section 4 of the Act and section 59-5.1 of City of Toronto Municipal Code Chapter 59, Emergency Management, due to the risk to the health of the residents of the City of Toronto arising from spread of COVID-19; and

WHEREAS on March 28, 2020, an Order was made by the Lieutenant Governor in Council under Subsection 7.0.2 (4) of the Act – Organized Public Events, Certain Gatherings, O. Reg. 52/20, prohibiting attendance at any organized public event of more than five people;

WHEREAS City Hall is closed to the public during the COVID-19 emergency;

WHEREAS the Board wishes to hold its meetings electronically as a result of the closure of City Hall to the public, to comply with Ontario Regulation 52/2020 and to minimize risk to its board members and the public in accordance with advice from the City of Toronto's Medical Officer of Health, who has recommended physical distancing measures to prevent the spread of COVID-19; and

WHEREAS the Board continues to ensure its meetings are open to the public in accordance with section 190 of COTA through the provision of notice of the Board meeting to the public, the live streaming of the electronic meeting, and the provision of access to interested persons to depute to the Board using the same tele-conferencing system as is being used to facilitate the meeting; and

WHEREAS subsection 43(2) of By-law No. 1 requires that notice to amend it must have been received at a previous meeting; and

WHEREAS in light of the declared COVID-19 emergency, it is currently impossible to give such notice to amend By-law No.1 at a regular meeting prior to amending it to facilitate electronic participation; and

WHEREAS Bill 187 takes priority over this notice requirement of subsection 43(2) of By-law No.1 by allowing for procedural by-laws of local boards to be amended at a special meeting at which electronic participants are counted toward determining quorum during a declared emergency; and

WHEREAS the Board has authorized changes to By-law No. 1 of the Board of Directors of Create TO to enable remote electronic participation in Board meetings in accordance with the provisions of Bill 187;

The Board of Directors of Create TO enacts:

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1. By-law No. 1 of the Board of Directors of Create TO is amended by adding the following new sections:

- (1) 31.1. During any period where an emergency has been declared to exist in all or part of the City of Toronto under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*:

- (1) The Board may, despite subsection 25(2), hold a Meeting where some or all of the Members participate electronically and, where all of the Members participate electronically, no physical meeting is held.
- (2) Where a Meeting is being held in accordance with subsection (1):
- (a) any Member participating in the Meeting electronically shall be deemed present for the purposes of determining whether a quorum is present under subsection 29(1), and for the purposes of having the right to vote on any business before the Board under section 18, and for all other purposes ;
- (b) any Member participating in the Meeting electronically shall be entitled to participate in any portion of the Meeting closed to the public in accordance with section 28;
- (c) this section shall apply with any necessary modifications to Meetings of any Committees of the Board; and
- (d) this By-law shall apply to a Meeting held under this section, with any other minor modifications as may be required,

- (2) 43(2.1) Notwithstanding subsection (2), where a Special Meeting of the Board is held under subsection 189(4.3) of the *City of Toronto Act, 2006* to amend this By-law to allow for electronic participation in Board Meetings during a declared emergency, no notice of the proposed amendment is required at a previous regular Board Meeting.

2. This by-law shall come into force on the date it is enacted and passed.

Enacted and passed on , 2020.

Chair