

## **Nominal Licence Agreement with Conseil scolaire Viamonde for Non-exclusive use of Felstead Park**

**Date:** April 4, 2023

**To:** General Government Committee

**From:** Executive Director, Corporate Real Estate Management and General Manager, Parks, Forestry and Recreation

**Wards:** 14 - Toronto - Danforth

### **SUMMARY**

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The purpose of this report is to seek Council authority to enter into a nominal licence agreement (the "Licence Agreement") with Conseil scolaire Viamonde ("CSV") for non-exclusive use of approximately 135,650 square feet of the City-owned lands municipally known as 60 Felstead Avenue and commonly known as Felstead Avenue Playground Park, to accommodate the school-related activities of CSV's planned secondary school at 24 Mountjoy Avenue, Toronto, located directly across from the Park (the "School"). The School is scheduled to open in September 2023.

As part of the Licence Agreement, the City shall undertake certain capital improvements to the Park to minimize traffic impacts to the non-licensed areas of the Park. CSV will reimburse the City for the full costs of the capital improvements made to the Park to accommodate CSV's use of the Licensed Area.

CSV will also be responsible for the costs associated with any necessary changes to on-street parking, and upgrades to road crossing conditions, as directed by Transportation Services, made to accommodate CSV's use of the Licensed Area. City staff will bring a report to the Toronto East York Community Council to support the implementation of the signage changes in May 2024.

### **RECOMMENDATIONS**

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The Executive Director, Corporate Real Estate Management and the General Manager, Parks, Forestry and Recreation recommend that:

1. City Council authorize the City to enter into a licence agreement with the Conseil scolaire Viamonde ("CSV") to grant CSV non-exclusive use of

approximately 135,650 square feet of the City-owned lands municipally known as 60 Felstead Avenue (the "Licensed Area"), and commonly known as Felstead Avenue Playground Park (the "Park"), upon the major terms and conditions attached herein as Appendix A, with such other terms and conditions as may be acceptable to the Executive Director, Corporate Real Estate Management, and in a form and content acceptable to the City Solicitor.

2. City Council to authorize City staff, at the cost of Conseil scolaire Viamonde, to undertake certain capital improvements to the Park, to the satisfaction of the General Manager, Parks, Forestry and Recreation, which includes, but not limited to, fencing and parkways redesign of certain ingress and egress pathways from and to the Park.

3. City Council authorize and direct the appropriate City officials to take necessary action to give effect thereto.

## **FINANCIAL IMPACT**

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There are no financial impacts to the City resulting from the approval of this report.

CSV will be responsible for the incremental maintenance costs of the Licensed Area and Parks, Forestry and Recreation's ("PFR") Parks Operations will continue to be responsible for the maintenance of the Licensed Area. The incremental maintenance costs of the Licensed Area are estimated to be approximately \$20,000 annually (plus Harmonized Sales Tax). At the beginning of each calendar year during the term of the Agreement, the City will review the annual maintenance cost estimation. The estimation may change based on the actual incremental maintenance costs of the Licensed Area of the preceding year.

CSV will be responsible for the costs associated with changes to on-street parking, signage installations and upgrades to street crossings, as directed by Transportation Services, made to accommodate CSV's use of the Licensed Area.

If CSV requires exclusive use of the sports field within the Licensed Area, or use outside of its Hours of Operation, CSV will be responsible to acquire a sports field permit ("Sports Field Permit") from the City and pay the associated Sports Field Permit fees. CSV's demand for the Sports Field Permit is unknown at this time, and the potential revenues generated from the Sports Field Permit fee will be reflected in PFR's 2024 Operating Budget.

CSV will be responsible for reimbursing the City for all costs associated with the capital improvements of the Park to accommodate its use of the Licensed Area. An amendment to PFR's Capital Budget for 2023 will be requested when the Park redesign process is completed and actual capital improvement costs are known. The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact section.

## DECISION HISTORY

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This report represents a new initiative.

## COMMENTS

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In September 2023, CSV plans to open a secondary School, directly across from the Park. The School is expected to serve approximately 400 to 500 students spanning from Grades 7 to 12. In the School's first year of operation, the School is expected to serve approximately 175 students (approximately 75 students per grade, from Grades 7 to 9) with subsequent grades phased in each year. The School's hours of operation will be 8 a.m. to 3 p.m. from Monday to Friday (the "Hours of Operation").

Based on CSV's forecast, the current School site does not have adequate outdoor space to serve the number of expected students. Therefore, CSV approached the City requesting permission to access and use the Licensed Area as outdoor spaces for the School during the Hours of Operation. The City and CSV have reached a Licence Agreement in respect of CSV's use of the Licensed Area. The Licence Agreement is for nominal consideration, a term of five-years and includes, but is not limited to, the following obligations:

- The City shall undertake certain capital improvements to the Park, including without limitation, the construction of alternate ingress and egress routes between the Park and the abutting public roads. These capital improvements will minimize traffic impacts to the non-licensed areas of the Park. CSV will reimburse the City for the full costs of the capital improvements made to the Park to accommodate CSV's use of the Licensed Area.
- CSV is responsible for any costs associated with the changes to on-street parking and/or upgrades to street crossing conditions, as directed by Transportation Services, made to accommodate CSV's use of the Licensed Area. City staff will bring a report to the Toronto East York Community Council to support the implementation of the signage changes in May 2024.
- CSV is responsible for completing an updated Traffic Impact Study report, after one year of school operations and prior to the beginning of school operation in fall 2024, updating the traffic impact condition of the Park, and outlining any further mitigation measures required to minimize traffic impacts on the Park. CSV shall be responsible for the costs of implementing any further mitigation measures to minimize traffic impacts on the Park.
- The stakeholders of the Park shall form a liaison committee ("Committee"), led by PFR, to set up rules to govern the operation of the Licensed Area. The Committee shall include representatives from:

- The School;
  - CSV; and
  - The City (Transportation Services and PFR).
- The Committee shall meet: (1) in advance of the school year, (2) at the end of each semester, and (3) at the end of the year to review the School's use of the Licensed Area and to resolve any issues or matters that may arise from time to time from the School's use of the Licensed Area, including but not limited to:
    - Annual review of the traffic impacts on the Park.
    - Annual review of public feedback regarding use and maintenance of the public and/or private washrooms within the Licensed Area

See Appendix A for a list of the major terms and conditions of the Licence Agreement.

## **CONTACT**

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Christina Iacovino, Director of Client and Business Services, Parks, Forestry and Recreation, 416-392-8578, [Christina.Iacovino@toronto.ca](mailto:Christina.Iacovino@toronto.ca)

## **SIGNATURE**

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Patrick Matozzo  
Executive Director, Corporate Real Estate Management

Janie Romoff  
General Manager, Parks Forestry and Recreation

## **ATTACHMENTS**

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Appendix A - Major Terms and Conditions of Licence Agreement

## Appendix A – Major Terms and Conditions of Licence Agreement

Licensor	City of Toronto (the "City") – Parks, Forestry and Recreation ("PFR")
Licensee	Conseil scolaire Viamonde ("CSV")
Location	Felstead Park – 60 Felstead Ave, Toronto
Licensed Area	Exhibit A: Portion of the Felstead Park bounded in white and measuring approximately 135,650 square feet (the "Licensed Area"). Portion of the Felstead Park bounded in red and inclusive of the children's play area is not part of the Licensed Area.
Term of Licence Agreement	5 years commencing at the beginning of the 2023-24 school year
Extension	Provided that the Licensee is not then in default and has never been in default beyond any applicable curing period, the Licensee may have three options of extension for five years each subject to prior written approval of the City.
Notice	CSV to provide a notice in writing to the City, a minimum of six months prior to the Licence Agreement expiry, indicating their intention to extend the Licence Agreement.
Hours of Use	September to June, Monday to Friday, 8 a.m. to 4 p.m.
Type of Use	Non-exclusive use and access to the green space and sports field
Permitted Use	Exhibit B: CSV is allowed to use the sports field area exclusively on a temporarily basis and/or accessing the Licensed Area outside of the Hours of Use by applying to the City for a Sport Field Permit (as detailed in Other Fees below) and in compliance with the City's policies affecting the Sport Field Permit.
Licence Fees	Nominal

Licensor	City of Toronto (the "City") – Parks, Forestry and Recreation ("PFR")
Other Fees	<p><b>Maintenance Fees:</b>          CSV will be responsible for the incremental maintenance costs of the Licensed Area and PFR Parks Operations will continue to be responsible for the maintenance of the Licensed Area. The incremental maintenance costs of the Licensed Area are estimated to be approximately \$20,000 annually (plus Harmonized Sales Tax). At the beginning of each calendar year during the term of the Agreement, the City will review the annual maintenance cost estimation. The estimation may change based on the actual incremental maintenance costs of the Licensed Area of the preceding year.          The Licensee shall be responsible for the difference between the estimated cost and the actual cost of maintenance, to pay for any shortfall within 30 days of the delivery of the cost statement with any overpayment of the maintenance fee to be credited towards the next year's maintenance fee. Eligible maintenance costs will be identified in a schedule attached to the Licence Agreement.</p> <p><b>Sport Field Permit Fees:</b>          The Sport Field Permit fees is equal to the current rate paid by Toronto District School Board, as approved under the Toronto Municipal Code 441. The Sport Field Permit fees is to be paid when the Sport Field Permit is taken out to reserve the sport field, and the permit is for single use only and shall specify its hours of use.</p> <p><b>Damages:</b>          CSV shall be responsible for the cost to repair any and all damages to the Licensed Area, inclusive of equipment replacement costs, resulting directly or indirectly from the access and use of the Licensed Area by CSV's representatives, students, contractors, employees, agents, invitees and those whom CSV is responsible for at law (collectively, the "CSV Representatives"). The cost to repair are in addition to the maintenance fees. CSV will be responsible for reimbursing the City for the cost to repair within a period outlined in the Licence Agreement. Normal wear and tear are covered under the maintenance fees.</p>
Licensor Work	(A) CSV will be responsible for capital contributions for certain improvements to the Licensed Area to facilitate the

Licensor	City of Toronto (the "City") – Parks, Forestry and Recreation ("PFR")
	<p>use of the Licensed Area jointly by CSV and the City of Toronto (the "Project").</p> <ol style="list-style-type: none"> <li>1. The City will prepare a detailed design plan, along with an estimated cost budget for the Project.</li> <li>2. Once the design and budget is approved by the City, the City will complete all necessary works to the Licensed Area required to facilitate the shared use of space, using the City's own financial and labour resources.</li> <li>3. CSV will reimburse the City for 100% of the cost of the works associated with the Project by way of funding grants from the Ministry of Education (the "Funding Grants"). In the event the Funding Grants are insufficient to cover the full cost of the Project, the remaining balance will be covered by CSV's own financial resources.</li> </ol> <p>(B) CSV will be responsible for any costs associated with City-led changes to on-street parking or upgrades to crossing conditions (as outlined by City of Toronto Transportation Services (the "Transportation Services") in their report, constructed by the City, such costs includes, without limitation:</p> <ol style="list-style-type: none"> <li>1. Signage to identify a bus-loading zone along the west side of the Greenwood Secondary School site (the "School Site") on Ladysmith Avenue;</li> <li>2. Signage to identify a pick-up and drop off area along the south side of the School Site, including infill of grassed area between curb and sidewalk along the CSV's property on the north side of Mountjoy Avenue;</li> <li>3. Implementation of an east-west pedestrian crossing (via standard zebra striping) across Ladysmith Avenue at the Ladysmith and Mountjoy Avenue intersection; and</li> <li>4. Restoration of the pavement markings for the pedestrian crossing signal on Mountjoy Avenue.</li> </ol>

Licensor	City of Toronto (the "City") – Parks, Forestry and Recreation ("PFR")
Other Terms	<p>CSV will be responsible for updating the submitted Traffic Impact Study after one year of school operations and prior to the beginning of school operation in fall 2024.</p> <p>The City and CSV will collaborate to implement further measures if required. CSV will be responsible for costs of implementing additional measures if the actual use by CSV resulted in a greater traffic load than the Project anticipated load.</p>
Operation agreement (as a schedule)	<p>Setting out various governance matters:</p> <ol style="list-style-type: none"> <li>1. A liaison committee ("Liaison Committee") to be created to govern the use of the Licensed Area led by PFR, and the Liaison Committee to include representatives from: <ul style="list-style-type: none"> <li>• The School;</li> <li>• CSV; and</li> <li>• The City (Transportation Services and PFR).</li> </ul> </li> <li>2. The Liaison Committee shall meet: (1) in advance of the school year, (2) at the end of each semester, and (3) at the end of the calendar year to review CSV's use of the Licensed Area and to resolve any issues or matters that may arise from time to time.</li> <li>3. The Liaison Committee shall conduct annual review of: <ul style="list-style-type: none"> <li>• the use and maintenance of the public and/or private washroom within the Licensed Area</li> <li>• traffic impacts of the Licensed Area</li> <li>• community feedback related to shared use of the Park.</li> </ul> </li> <li>4. CSV shall set up and be responsible for a student supervision procedures</li> <li>5. City (PFR) shall set up/outline the maintenance schedule to the Licence Agreement</li> <li>6. City (Transportation Services) shall set up protocols to minimize of traffic impacts to the Licensed Area, and such protocols to be monitored and shall be the responsibility of CSV.</li> </ol>



Licensor	City of Toronto (the "City") – Parks, Forestry and Recreation ("PFR")
Conflict Resolution Process	<p>In the event of a dispute with respect to the Licence Agreement, prior to initiating any legal proceedings either through court procedure or by arbitration, CSV must first went through the City's internal conflict resolution process:</p> <p>Level 1 – PFR operation team – if the matter relates to the operation of the Licensed Area, and to Transportation Services, if the matter is traffic-related</p> <p>Level 2 – PFR Business Services/Corporate Real Estate Management, Property Management – if the matter is related to the Licence Agreement</p> <p>Level 3 – Escalation to management (PFR)</p> <p>Level 4 – Senior Management or above</p>
Termination	<p>In the event of a breach of the terms of the Licence Agreement beyond any applicable curing period, the conflict resolution process shall be undertaken in good faith by both parties. If no satisfactory resolution is achieved, either party shall have the right to terminate the Licence Agreement upon 60 days written notice to the other party.</p>

Exhibit A: Boundaries of Licensed and Non-Licensed Area

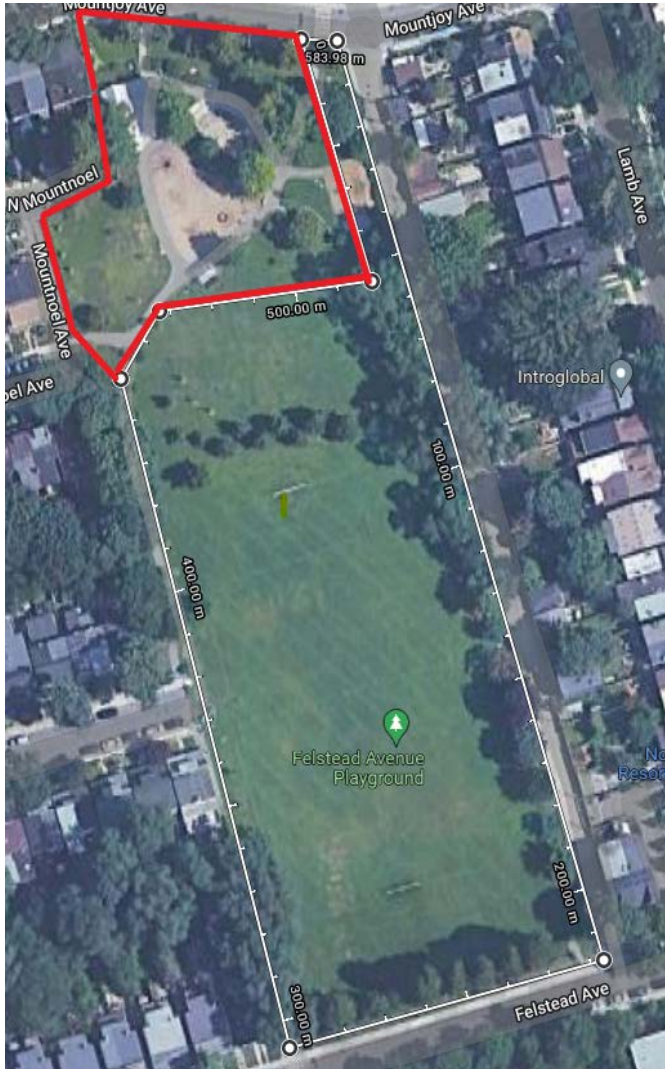


Exhibit B: Permitted Use – Sports Field

