

**DELEGATED APPROVAL FORM
CHIEF CORPORATE OFFICER
DIRECTOR OF REAL ESTATE SERVICES**

TRACKING NO.: 2016-012

Approved pursuant to the Delegated Authority contained in Executive Committee Item EX43.7 entitled "Delegation of Authority in Certain Real Estate Matters" adopted by City Council on May 11 and 12, 2010 (City Council confirmatory By-law No. 532-2010, enacted on May 12, 2010), as amended by GM24.9 entitled "Minor Amendments to Delegation of Authority in Certain Real Estate Matters" adopted by City Council on October 8, 9, 10 and 11, 2013 (City Council confirmatory By-Law No. 1234-2013 enacted October 11, 2013), as amended by DAF 2013-307 and DAF 2014-087.

Approved pursuant to the Delegated Authority contained in Executive Committee Item EX33.44 entitled "Union Station Revitalization Implementation and Head Lessee Selection" adopted by City Council on August 5 and 6, 2009. City Council confirmatory By-law No. 749-2009, enacted on August 6, 2009.

Prepared By:	Kathie Capizzano	Division:	Real Estate Services
Date Prepared:	January 20, 2016	Phone No.:	2-4825

Purpose	To confirm the terms of a Permanent Easement Agreement with Metrolinx to permit existing tie-backs and their concrete bases (collectively the "Tie-Backs") constructed by Metrolinx beneath a portion of City-owned lands to support a retaining wall along the rail track, to remain in place on a permanent basis
Property	Part of 53 Strachan Avenue shown on Appendix A as Part 2 on Plan 66R-28343 (the "Servient Lands")
Actions	<ol style="list-style-type: none"> The City enter into the Permanent Easement Agreement with Metrolinx for Servient Lands comprising approximately 1,912.5 square meters (20,585.98 square feet) in size, and shown in Appendix A as Part 2, to permit the existing Tie-backs constructed by Metrolinx to remain in place on a permanent basis; the Chief Corporate Officer administer and manage the Agreement including the provision of any consents, approvals, waivers, notices and notices of termination provided that the Chief Corporate Officer may, at any time, refer consideration of such matters to City Council for its determination and direction; and The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.
Financial Impact	<p>Metrolinx has agreed to make an additional maximum payment of \$460,000 for expropriation costs for 14 John Street (near Weston Road and Lawrence Avenue) which will be funded through the Community Development Reserve Fund (XR3100) as approved by City Council on May 5th, 2015 (GM3.22). As authorized by GM26.17, adopted by City Council on December 16, 17 & 18, 2013, the additional amount includes a credit of \$38,500.00 for the permanent easement.</p> <p>The Deputy City Manager & Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	DAF Tracking No. 2010-314 authorized a Licence Agreement between the City and Metrolinx for the Tie-backs with a term of twenty (20) years, expiring December 31, 2030. As part of negotiations for funding of expropriation costs of 14 John Street, Metrolinx requested a permanent easement to permit the Tie-backs to remain in place on a permanent basis. GM26.17 adopted by City Council on December 16, 17 & 18, 2013 authorized a permanent easement agreement on terms and conditions satisfactory to the Chief Corporate Officer.
Terms	See page 4 for terms negotiated with Metrolinx.

Property Details	Ward:	19 – Trinity Spadina
	Assessment Roll No.:	
	Approximate Size:	22.5 metres x 85.00
	Approximate Area:	1912.5 square metres (20,585.98 square feet)
	Other Information:	

A.	Director of Real Estate Services has approval authority for:	Chief Corporate Officer has approval authority for:
1. Acquisitions:	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
2. Expropriations:	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$3 Million.
3. Issuance of RFPs/REOs:	Delegated to a more senior position.	<input type="checkbox"/> Issuance of RFPs/REOs.
4. Permanent Highway Closures:	Delegated to a more senior position.	<input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.
5. Transfer of Operational Management to ABCDs:	Delegated to a more senior position.	<input type="checkbox"/> Transfer of Operational Management to ABCDs.
6. Limiting Distance Agreements:	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
7. Disposals (including Leases of 21 years or more):	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan:	Delegated to a more senior position.	<input type="checkbox"/> Exchange of land in Green Space System and Parks and Open Space Areas of Official Plan.
9. Leases/Licences (City as Landlord/Licensor):	<input checked="" type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$1 Million; <input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding three (3) months, including licences for environmental assessments and/or testing, etc.	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$3 Million; <input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding six (6) months, including licences for environmental assessments and/or testing, etc.
10. Leases/Licences (City as Tenant/Licensee):	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$3 Million.
11. Easements (City as Grantor):	<input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million. <input type="checkbox"/> (b) When closing road, easements to pre-existing utilities for nominal consideration.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million. Delegated to a less senior position.
12. Easements (City as Grantee):	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
13. Revisions to Council Decisions in Real Estate Matters:	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and may include increase not to exceed the amount of the original decision by the lesser of 10 per cent and \$500,000).	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and may include increase not to exceed the amount of the original decision by the lesser of 10 per cent and \$1 Million).
14. Miscellaneous:	<input type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences; <input type="checkbox"/> (b) Releases/Discharges; <input type="checkbox"/> (c) Surrenders/Abandonments; <input type="checkbox"/> (d) Enforcements/Terminations; <input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates; <input type="checkbox"/> (f) Objections/Waivers/Cautions; <input type="checkbox"/> (g) Notices of Lease and Sublease; <input type="checkbox"/> (h) Consent to regulatory applications by City, as owner; <input type="checkbox"/> (i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title; <input type="checkbox"/> (j) Documentation relating to Land Titles applications; <input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds.	<input type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences; <input type="checkbox"/> (b) Releases/Discharges; <input type="checkbox"/> (c) Surrenders/Abandonments; <input type="checkbox"/> (d) Enforcements/Terminations; <input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates; <input type="checkbox"/> (f) Objections/Waivers/Cautions; <input type="checkbox"/> (g) Notices of Lease and Sublease; <input type="checkbox"/> (h) Consent to regulatory applications by City, as owner; <input type="checkbox"/> (i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title; <input type="checkbox"/> (j) Documentation relating to Land Titles applications; <input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds.

B. Chief Corporate Officer and Director of Real Estate Services each has signing authority on behalf of the City for:

- 1. Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.
- 2. Expropriation Applications and Notices following Council approval of expropriation.
- 3. Documents required to implement the delegated approval exercised by him.

Chief Corporate Officer also has approval authority for:

- Leases/licences/permits at Union Station during the Revitalization Period, if the rent/fee is at market value.

Consultation with Councillor(s)										
Councillor:	Councillor Mike Layton					Councillor:				
Contact Name:	Councillor Layton					Contact Name:				
Contacted by:	<input checked="" type="checkbox"/> Phone	<input checked="" type="checkbox"/> E-Mail	<input type="checkbox"/> Memo	<input type="checkbox"/> Other		Contacted by:	<input type="checkbox"/> Phone	<input type="checkbox"/> E-mail	<input type="checkbox"/> Memo	<input type="checkbox"/> Other
Comments:	conkurs					Comments:				
Consultation with ABCDs										
Division:	Parks					Division:				
Contact Name:	Marc Kramer					Contact Name:				
Comments:	conkurs					Comments:				
Legal Division Contact										
Contact Name:	Soo Kim Lee									
DAF Tracking No.: 2016- 012			Date			Signature				
Recommended by: Manager			January 21, 2016			Brian Varner				
<input checked="" type="checkbox"/>	Recommended by: Director of Real Estate Services Joe Casali			January 22, 2016			Joe Casali			
<input type="checkbox"/>	Approved by:									
<input type="checkbox"/>	Approved by: Chief Corporate Officer Josie Scioli									

General Conditions ("GC")

- (a) The local Councillor (or local Councillors if the subject property is located on a ward boundary or if the transaction involves an exchange of properties in more than one ward), will be consulted prior to the exercise of delegated Approving Authority by staff for all Acquisitions, Disposals, Land Exchanges and Leases.
- (b) Where approving power has been delegated to staff, the Chief Corporate Officer, in consultation with the applicable Deputy City Manager or the City Manager, may determine that such matter is of such special interest that same should be returned to the relevant Committee and Council for consideration and determination.
- (c) Exercise of delegated authority is subject to all applicable Council policies, statutes or other applicable law.
- (d) Authority to approve financial commitments/expenditures is subject to all amounts being available in an approved budget [or funding is available from alternative sources].
- (e) Property interests are to be based on appraised value, and no interest shall be granted at less than market value unless otherwise specifically authorized.
- (f) Authority to approve transactions at less than market value is subject to statutory anti-bonusing provisions.
- (g) Total compensation means the aggregate of all types of payments, including land value, estimated clean-up costs, potential arbitration awards, loss claims, etc, but exclusive of any applicable taxes and registration costs.
- (h) Authority to acquire property is conditional upon provision being made to bring the property into compliance with applicable MOE or other requirements such that it will be fit for its intended municipal purpose.
- (i) Authority to initiate the permanent road closure process in **A.4** is conditional upon confirmation by the GM of Transportation Services that it is feasible to permanently close the highway.
- (j) Disposal authorities in **A.7** are subject to the property having been declared surplus, and the disposal policy complied with.
- (k) Land exchanges, except for those in **A.8**, may be authorized based on the delegated Approving Authority for Disposals in **A.7**.
- (l) Approving Authority with respect to land located in the Designated Waterfront Area is conditional upon the approval of the Director, Waterfront Secretariat.
- (m) Authority to approve an exchange of land in **A.8** is conditional upon confirmation by the Chief Planner and Executive Director, and the GM of Parks, Forestry & Recreation, that the land being exchanged is (i) nearby land of equivalent or larger area, and (ii) of comparable or superior green space utility.
- (n) Approving Authority in **A.9** Leases (City as Landlord) but not Licences (City as Licensor) is limited to periods (including options/renewals) of less than twenty-one (21) years.
- (o) Total compensation in leasing matters where the City is landlord (**A.9**) includes the value of tenant improvements if factored into tenant's rental payments.
- (p) Total compensation in leasing matters where the City is the tenant (**A.10**) includes the value of any tenant improvements to be paid by the City.
- (q) Where options/renewals are included in leases, if the renewal rent is to be determined at a date later than the original approval date, total compensation is to be calculated as though all options are exercised, estimating the renewal rent based on the highest rent payable in the first term of the lease.
- (r) Total compensation in leasing matters where the City is landlord (**A.9**) or tenant (**A.10**) is to be calculated from the date of approval pursuant to this delegation (ie. first allowing for the expiry of any prior approvals, whether by Council or a delegated authority).
- (s) Approving Authority in leasing matters includes authority to approve renewals/extensions within the parameters of the delegated Approving Authority.
- (t) Approving Authority includes authority for amendments within the parameters of the delegated Approving Authority, the cumulative total of which may not exceed the delegated financial limit.
- (u) Where proposed additional amounts in **A.13** exceed 10 per cent of the original decision, even if otherwise in compliance with all other conditions, then approving authority is transferred upwards to the next more senior level of approving authority having the relevant overall financial limit.
- (v) Approving Authority includes authority for all documents necessary to implement the authority, on terms and conditions satisfactory to the Approving Authority, in consultation with the relevant operating Division(s).
- (w) Staff positions referred to in this delegation include successors from time to time.
- (x) Documents are to be in a form satisfactory to the City Solicitor (including indemnity and insurance provisions).
- (y) Delegated signing authorities in **B** are conditional upon the documents having received the City Solicitor's prior "Approval as to Form".
- (z) This delegation does not affect sales, acquisitions and leases over which the Affordable Housing Committee has responsibility.
- (aa) Authority to use land acquired by the City for parking purposes by the Toronto Parking Authority is conditional upon Council enacting a by-law designating such use.
- (bb) All residential leasing documents shall adhere to the *Residential Tenancies Act* and any successor legislation.
- (cc) Despite GC(n), Approving Authority in residential leasing matters is not limited to periods of less than twenty-one (21) years.

Terms negotiated with Metrolinx:

1. The City and Metrolinx have agreed to convert the December 22, 2010 Licence Agreement (the "2010 Licence Agreement") to a permanent easement, upon the terms and conditions set out herein.
2. Metrolinx shall have a right of reasonable access to the Servient Lands from time to time to inspect, maintain, repair and re-construct the Tie-backs. Following each entry by the Metrolinx onto the Servient Lands, Metrolinx shall restore at its own cost and to the satisfaction of the City, acting reasonably, the Servient Lands to a condition as close as reasonably possible to its condition immediately preceding the entry by Metrolinx on the Servient Lands. Metrolinx shall at all times, at its expense, keep and maintain the Tie-backs in a safe condition and good state of repair.
3. The City shall have the right to fully enjoy the Servient Lands, save and except the City shall not perform any excavation on, remove any trees from or construct any improvements on the City lands above the Servient Lands that could de-stabilize the Wall without the prior written consent of Metrolinx, which shall not be unreasonably withheld or delayed.
4. The City agrees that it has no ownership interest in the Tie-backs and ownership of the Tie-backs shall remain solely with Metrolinx.
5. Metrolinx acknowledges that the City (through Build Toronto and its contractors) will construct the Fort York pedestrian and cycle bridges (the "**Fort York Pedestrian Bridge**") over part of the Metrolinx rail corridor. For greater certainty, nothing in the grant of permanent easement shall affect construction of the Fort York Pedestrian Bridge by Build Toronto and its contractors.
6. Metrolinx hereby releases, waives and forever discharges the City and its officers, agents, servants, contractors, representatives, employees, elected and appointed officials, successors and assigns (collectively the "*Released Persons*") of and from any and all manner of claims, demands, damages, costs, expenses, actions and causes of actions, whether in law or equity, in respect of death, injury, loss or damage to the person or any property of Metrolinx, the City or others howsoever caused, which Metrolinx may at any time hereafter have against any of the Released Persons arising or to arise by reason of the permission granted pursuant to this Agreement or any of the terms and conditions hereof, save and except that this release, waiver and discharge does not apply to any claims, demands, damages, costs, expenses, actions or causes of action arising from breach of this Agreement, or negligence or wilful misconduct by the City or its employees, contractors, consultants, agents or others for whom the City is responsible in law.
6. Except as amended, the terms and conditions of the 2010 Agreement and any amendments thereto shall continue in full force and effect.

