

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:	Vicky Papas	Division:	Real Estate Services
Date Prepared:	May 19, 2016	Phone No.:	392-1830

Purpose	To authorize the settlement of an expropriation to acquire certain property interests shown in Appendix "A" attached hereto (collectively the "Property Interests") located at 396 St. Clair Avenue West, owned by Loblaws Inc. ("Loblaws"), a portion of which is leased to the Liquor Control Board of Ontario (the "LCBO"). The Property Interests are required to install an elevator (the "Elevator") in the St. Clair West Subway Station (the "Subway Station") pursuant to the Toronto Transit Commission's ("TTC") Easier Access Program.
Property	396 St. Clair Avenue West, Toronto, shown in Appendix "B", attached hereto, being part of PIN 10467-0017, Part Lot A, Plan 1153, Twp. of York, Part 8, 64R-15141; Part Lot A, Plan 1153, West Toronto Junction Part 9, 64R-15580 and Part 4, 64R-15141; Part Lot 25, Concession 3, FTB, Twp. of York, Parts 1, 6, 7, 64R-15141, Parts 8, 39-42, 49-51, 69-73, 78-85, 100-106, 64R-15580, subject to CA500745, Toronto (York) City of Toronto.
Actions	<p>1. Authorize the City to enter into the following agreements: (a) a Property Settlement Agreement with Loblaws, LCBO and TTC to acquire the Property Interests as shown in Appendix "A", attached hereto (the "Property Interests"), substantially on the terms set out in Appendix "C", attached hereto; and (b) a Compensation Settlement Agreement with the TTC and each of LCBO and Loblaws, respectively, substantially on the terms set out in Appendix "C" and Confidential Attachments 1 and 2, attached hereto, with such revisions thereto, and on such other terms and conditions as may be acceptable to the Chief Corporate Officer and in a form acceptable to the City Solicitor;</p> <p>2. Authorize the City to enter into such other agreements or documents, or amend or restate such existing agreements or documents, including without limiting the generality of the foregoing, a Second Reciprocal Agreement and Amendment to Encroachment Agreement, in order to give effect to the recommendations set out herein, on terms and conditions satisfactory to the appropriate officials (including deletions, additions, revisions), and in a form acceptable to the City Solicitor;</p> <p>3. Authorize the City Solicitor to complete the transaction on behalf of the City, including making payment of any necessary expenses and amending the closing and other dates to such earlier or later date(s) and on such terms and conditions as she may from time to time consider reasonable;</p> <p>4. The confidential information in Attachments 1 and 2 shall remain confidential indefinitely as it contains third party financial information relating to a proposed or pending acquisition of land by the City.</p>
Financial Impact	Funding for the property acquisition and compensation settlements along with associated costs including closing costs, land transfer tax and registration fees is available in the 2016 Council Approved Capital Budget for the Toronto Transit Commission (TTC) under account WO#61179960. The relevant financial information is set out in Confidential Attachment 1 for Loblaws and Confidential Attachment 2 for LCBO. The Deputy City Manager & Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.
Comments	See Page 4.
Terms	The terms and conditions are set out in Appendix "C" and in Confidential Attachments 1 and 2.

Property Details	Ward:	21 – St. Paul's
	Assessment Roll No.:	n/a
	Approximate Size:	As outlined in Appendix "A"
	Approximate Area:	As outlined in Appendix "A"
	Other Information:	

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

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:	Joe Mihevc					Councillor:				
Contact Name:	Joe Mihevc & Michelle Maron					Contact Name:				
Contacted by:	x	Phone	x	E-Mail		Memo		Other		
Comments:	Approved					Comments:				
Consultation with ABCDs										
Division:	Toronto Transit Commission					Division:	Finance			
Contact Name:	Vincenza Guzzo					Contact Name:	Filisha Mohammed and Warren Daniel			
Comments:	approved					Comments:	approved			
Legal Division Contact										
Contact Name:	Luxmen Aloysius									
DAF Tracking No.: 2016- 081			Date			Signature				
Recommended by: Manager			May 19, 2016			Signed by Tim Park				
<input checked="" type="checkbox"/>	Recommended by: Director of Real Estate Services Joe Casali			May 19, 2016			Signed by Joe Casali			
<input type="checkbox"/>	Approved by:									
<input checked="" type="checkbox"/>	Approved by: Chief Corporate Officer Josie Scioli			May 19, 2016			Signed by 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.

DAF Tracking No.: 2016-081

Comments/Background:

TTC maintains and operates the Subway Station through portions of the Property under an easement granted to the City by Loblaws (the "Permanent Easement") and pursuant to the following agreements: a Reciprocal Agreement dated September 25, 1997), an Easement Agreement dated August 29, 1997 and an Encroachment Agreement dated May 24, 1999 (collectively the "Existing Agreements").

The Existing Agreements were authorized by Report No. 20 (7) of the Metropolitan Executive Committee adopted in Metro Council on the 29th and 30th of June, 1975. A new permanent easement is required (as shown on Appendix "A" attached hereto) by the City from Loblaws for the installation, construction of an elevator, and the operation, inspection, maintenance, lateral support, use, protection, ventilation, replacement and repair of the elevator and the existing rapid transit subway line, subway station, bus and streetcar terminal and related public transit (the "New Easement"). In addition, the existing Encroachment Agreement will need to be amended to add the structures under the New Easement. The terms of the Reciprocal Agreement will have to be incorporated into a new agreement that deals specifically with the New Easement.

On August 25, 26, 27 and 28, 2014 Toronto City Council adopted Item GM32.15 authorizing the Director of Real Estate Services to negotiate the acquisition of the Property Interests, and to initiate expropriation proceedings required to install the Elevator in the Subway Station as part of TTC's Easier Access Program. After months of negotiations, the parties have negotiated a settlement to acquire the Property Interests without the necessity of an expropriation.

APPENDIX 'B'

SUBJECT LOCATION MAP



DAF Tracking No.: 2016- 081

APPENDIX 'C'**TERMS AND CONDITIONS**

Parties	City, TTC, Loblaws and LCBO
Property Interests	See Appendix "A"
Compensation	Compensation is to be provided to Loblaws and to LCBO pursuant to separate Compensation Settlement Agreements, whereby Loblaws and LCBO will be separately compensated in those amounts identified in Confidential Attachment 1 with respect to Loblaws and Confidential Attachment 2 with respect to LCBO. These amounts include compensation for business losses, market value for the interests acquired, lost rent during LCBO shut down to Loblaws and legal and consulting fees.
Compensation Adjustment	Six (6) months after the LCBO store re-opens for business, the parties agree to review the amount of compensation paid to each of Loblaws and LCBO, taking into consideration the actual period of the LCBO shut-down, as well as the then current business records and other documents and other satisfactory evidence, to establish the actual losses and compensation paid to each party. The parties agree to readjust the compensation estimate, if necessary, based on this review.
Arbitration	Any disputes with respect to compensation are to be settled by binding arbitration.
Release	Loblaws and LCBO, individually, release and forever discharge the City and the TTC for any and all claims, actions, causes of action and demands for compensation of any kind, including without limitations, injurious affection, interest costs or disturbance damages as provided for in the Expropriations Act. The release does not relate to the obligations of the City and the TTC under the Compensation Settlement Agreements.