

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

TRACKING NO.: 2017-012

- 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 (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 (Confirmatory By-Law No. 1234-2013, enacted on October 11, 2013), as amended by DAF 2013-307 and DAF 2014-087; and further amended by EX44.22 entitled "Strategic Property Acquisitions" adopted by City Council on August 25, 26, 27 and 28, 2014 (Confirmatory By-law No.1074-2014, enacted on August 28, 2014), and further amended by GM16.16 entitled "Transit Shelter Property Acquisitions" adopted by City Council on December 13, 14 and 15, 2016 (Confirmatory By-Law No. 1290-2016, enacted on December 15, 2016).
- 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:	Van Hua	Division:	Real Estate Services
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Date Prepared:	March 2, 2017	Phone No.:	416 338 9572
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Purpose
To obtain authority to enter into a one (1) year Licence Agreement (the "Agreement") with Toronto District School Board (the "Licensor") for a portion of the land municipally known as 711 Bloor Street East, as shown on Schedule "B" (the "Licensed Area"), for use as storage and staging area to perform structural repair on the Prince Edward Viaduct (the "Viaduct Repair Project").

Property
Approximately 15,000 square feet of land located south of Bloor Street East and west of Bayview Avenue, located within the boundaries of the property municipally known as 711 Bloor Street East, as outlined in heavy red on the attached sketch of the Licensed Area (see Schedule B).

- Actions**
1. Authority is granted to enter into the Licence Agreement with the Toronto District School Board for the Licensed Area, subject to the terms and conditions outlined in Schedule A, and on such other or amended terms and conditions as may be satisfactory to the Chief Corporate Officer, and in a form acceptable to the City Solicitor;
 2. The Chief Corporate Officer or her designate shall 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
 3. The appropriate City officials be authorized and directed to make whatever action is necessary to give effect thereto.

Financial Impact
The total expenditure to the City will be approximately \$32,419.00 (plus HST), which includes a fee of \$11,000.00 for the Licensed Area, and a payment of approximately \$21,419.00 for the removal and pruning of trees, replacement of removed trees, and fencing. In addition, a contingency budget allowance of \$2,768 may be claimed by the Licensor as required, which would bring the total expenditure to the City to \$35,187.00 (plus HST) or \$35,806.29 (net of HST recovery). There is an option to extend the term up to 3 months. Should this option be exercised, the Licence fee shall be adjusted on a prorated basis which could cost up to an additional \$2,750 (plus HST) or \$2,798.40 (net of HST recovery). Funding for all costs associated is available in the 2017 Council Approved Capital Budget for Transportation Services under CTP515-01-38.

Comments
The Deputy City Manager & Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.

Comments
Please see page 4.

Terms
As outlined in attached Schedule A.

Property Details	Ward:	27 – Toronto Centre-Rosedale
	Assessment Roll No.:	
	Approximate Size:	
	Approximate Area:	1,386 sq. m. (15,000 sq. ft.)
	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 checked="" 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 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 or her.

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:	Kristyn Wong-Tam					Councillor:				
Contact Name:	Melissa Wong					Contact Name:				
Contacted by:	Phone	x	E-Mail	Memo	Other	Contacted by:	Phone	E-mail	Memo	Other
Comments:	No objections.					Comments:				
Consultation with ABCDs										
Division:	Engineering and Construction Services					Division:	Financial Planning			
Contact Name:	Jodie Atkins					Contact Name:	Anthony Ng/Filisha Mohammed			
Comments:	Consent					Comments:	Consent			
Legal Division Contact										
Contact Name:	Ray Mickevicius									
DAF Tracking No.: 2017- 012					Date		Signature			
Recommended by: Manager, Wayne Duong					Mar/3/2017		Sgd.\ Wayne Duong			
<input type="checkbox"/> Recommended by: Director of Real Estate Services Joe Casali					Mar/14/2017		Sgd.\ Joe Casali			
<input checked="" type="checkbox"/> Approved by:										
<input type="checkbox"/> Approved by: Chief Corporate Officer Josie Scioli							X			

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 being available from third party sources, except for "Strategic Property Acquisitions" as set out in EX44.22 adopted by Council August 25, 26, 27 and 28, 2014, which identifies alternative funding mechanisms subject to additional approval requirements.
- (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-bonus 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, except for property acquisitions of 50M² or less for transit shelter purposes.
- (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.

Comments

The Licensee must undertake critical and necessary rehabilitation work on the Prince Edward Viaduct (the "PEV") including removing delaminated concrete and repairing the deteriorated concrete surfaces of the piers and abutments of the PEV. In connection with the Viaduct Repair Project, the Licensee requires temporary access to a portion of Toronto District School Board's land to access the PEV to carry out repair work including temporary construction access, staging, scaffolding, and temporary storage of construction materials. Approximately 13 trees within the Licensed Area are to be removed to facilitate the Viaduct Repair Project. These trees will be replaced and the location of the replacement trees shall be determined by Toronto District School Board staff.

Access to a nearby City of Toronto park has been provided to the Toronto District School Board for use for the term of this Agreement, as part of the work for the Viaduct Repair Project will occur on the playing field previously used by the Toronto District School Board for this school. A separate license for this access has been agreed to by Parks, Forestry & Recreation and the Toronto District School Board.

Real estate services considers the proposed annual fees and other terms and conditions in the Licence Agreement to be fair, reasonable and at market value.

Schedule A

Licensed Lands:

Approximately 15,000 square feet of Licensor's land located south of Bloor Street East and west of Bayview Avenue, being a portion of the land municipally known as 711 Bloor Street East.

Restrictions on Licence:

Licensee to coordinate all work on Toronto District School Board lands with the Toronto District School Board's project supervisor or designated representative.

Term:

One (1) year, commencing on or about May 1, 2017 and expiring on April 30, 2018.

Option to Extend:

Option to extend to a date not later than July 31, 2018 upon not less than ninety (90) days prior written notice. In the event of the exercise of such option to extend by the Licensee, the Licence fee shall be adjusted on a prorated basis.

Financial Impact on the City:

The Licensee shall pay to the Licensor a fee of \$11,000.00 plus HST for the Licensed Land along with approximately \$21,419.00 plus HST for the removal and pruning of trees, replacement of removed trees, and fencing. The total expenditure to the City will be approximately \$32,419.00 plus HST. A contingency budget allowance of \$2,768 may be claimed by the Toronto District School Board as required which would bring the total expenditure to the City to \$35,187.00 plus HST if claimed. If the option to extend is exercised, the prorated Licence fee could be up to an additional \$2,750 plus HST, bringing the grand total to \$37,937.00 plus HST.

Insurance:

Comprehensive general liability insurance coverage for \$10,000,000.00 per occurrence.

Indemnification:

The City shall indemnify the Toronto District School Board from and against any and all claims, suits, demands, causes of action, damages, losses, liabilities, charges, legal proceedings, penalties or other sanctions and expenses arising out of any other loss or injury whatsoever arising from or out of this Agreement.

The City shall indemnify and save harmless from all Construction Lien Act claims.

Restoration:

Prior to returning the Licensed Area to TDSB, the City shall be responsible for the costs associated with TDSB undertaking the following tasks:

- i) Restore any fencing damage during the Term,
- ii) Repair any damage caused to existing stairs along the north side of TDSB lands.
- iii) Restore the Licensed Area as close to reasonably possible to its prior condition in consultation with the City.

Schedule B Sketch of Licensed Area

