

DELEGATED APPROVAL FORM
DEPUTY CITY MANAGER, INTERNAL CORPORATE SERVICES
DIRECTOR OF REAL ESTATE SERVICES

TRACKING NO.: 2017-289

- 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:	Irina Fofanova	Division:	Real Estate Services
Date Prepared:	November 3, 2017	Phone No.:	(416) 397-0806

Purpose	To: (i) initiate the process to permanently close and to authorize the General Manager, Transportation Services to give notice to the public of a proposed by-law to permanently close the surplus portion of Cooper Street north of Queens Quay East; and (ii) obtain authority to enter into, and complete a land exchange (the "Agreement") with Menkes 55 Lakeshore Inc. (the "Developer") for said portion of Cooper Street, in exchange for a portions of 55 Lake Shore Boulevard East.		
Property	<ol style="list-style-type: none"> 1. Portion of Cooper Street, legally described as part of Church Street on plan 153E Toronto (AKA Cooper Street); being Church Street between Queens Quay & Lakeshore Boulevard; Toronto, City of Toronto, shown as Part 1 on Sketch No. PS-2017-026 (the "Highway"). 2. Portions of 55 Lake Shore Boulevard East, legally described as PT BLK B PL 754E designated as Part 1 on Plan 66R-27133; City of Toronto; and PT BLK B PL 754E designated as Part 2 ON Plan 66R-27133; City of Toronto; and PT BLK B PL 754E designated as Parts 1 and 2 on Plan 66R-27134. Subject to an easement over PT 1on Plan 66R27134 as in ES31850; City of Toronto, shown as Parts 2 and 3 on Sketch No. PS-2017-026 (the "Menkes Lands") 		
Actions	<ol style="list-style-type: none"> 1. The General Manager, Transportation Services be authorized to give notice to the public of a proposed by-law to permanently close the Highway in accordance with the requirements of the City of Toronto Municipal Code, Chapter 162, with the Toronto and East York Community Council to hear any member of the public who wishes to speak to the matter during consideration of the proposed by-law 2. The General Manager, Transportation Services be authorized to advise the public of the proposed closure of the Highway prior to implementation, in accordance with the requirements of the Municipal Class Environmental Assessment for Schedule "A+" activities, by posting notice of the proposed closure on the notices page of the City's Website for at least five working days prior to the Toronto and East York Community Council meeting at which the proposed by-law to close the Highway will be considered. 3. Authority is granted to enter into, and complete the Agreement for the City to acquire a portion of 55 Lake Shore Blvd E from the Developer., and in exchange, for Menkes 55 Lakeshore Inc. to acquire a portion of Cooper Street on the terms and conditions set out below, and on other such terms and conditions as may be satisfactory to the Deputy City Manager of Internal Corporate Services, and in a form acceptable to the City Solicitor. 4. The City Solicitor is authorized to complete the transaction on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as she considers reasonable. 5. The appropriate City Officials are authorized and directed to take the necessary action to give effect thereto. 		
Financial Impact	<p>The City Lands and the Developer's Lands have been appraised at approximately equivalent values, with the Developer's Lands having a higher estimated value, and so they will be exchanged for nominal consideration.</p> <p>The City shall be responsible for Land Transfer Tax of \$64,475.00, and registration costs of \$75.63. Funding is available in the 2017 – 2026 Council Approved Capital Budget & Plan for Transportation Services (project CTP817-24).</p> <p>The Acting Chief Financial Officer has reviewed this DAF and agrees with the financial impact information</p>		
Comments	See page 4		
Terms	See page 4		

Property Details	Ward:	28 – Toronto Centre - Rosedale	28 – Toronto Centre - Rosedale
	Assessment Roll No.:		
	Approximate Size:	Irregular	Irregular
	Approximate Area:	409.9 m ² ± (4,412 ft ² ±)	471.0 m ² ± (5,069.8 ft ² ±)
	Other Information:		

A.	Director of Real Estate Services has approval authority for:	Deputy City Manager, Internal Corporate Services has approval authority for:
1. Acquisitions:	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input checked="" 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/REOIs:	Delegated to a more senior position.	<input type="checkbox"/> Issuance of RFPs/REOIs.
4. Permanent Highway Closures:	Delegated to a more senior position.	<input checked="" 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 checked="" 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: N/A	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 type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$1 Million;	<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 three (3) months, including licences for environmental assessments and/or testing, etc.	<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"/> Where total compensation does not exceed \$3 Million.
	<input type="checkbox"/> (b) When closing road, easements to pre-existing utilities for nominal consideration.	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"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences;
	<input type="checkbox"/> (b) Releases/Discharges;	<input type="checkbox"/> (b) Releases/Discharges;
	<input type="checkbox"/> (c) Surrenders/Abandonments;	<input type="checkbox"/> (c) Surrenders/Abandonments;
	<input type="checkbox"/> (d) Enforcements/Terminations;	<input type="checkbox"/> (d) Enforcements/Terminations;
	<input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates;	<input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates;
	<input type="checkbox"/> (f) Objections/Waivers/Cautions;	<input type="checkbox"/> (f) Objections/Waivers/Cautions;
	<input type="checkbox"/> (g) Notices of Lease and Sublease;	<input type="checkbox"/> (g) Notices of Lease and Sublease;
	<input type="checkbox"/> (h) Consent to regulatory applications by City, as owner;	<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"/> (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"/> (j) Documentation relating to Land Titles applications;
	<input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds.	<input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds.

B. Deputy City Manager, Internal Corporate Services 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.

Deputy City Manager, Internal Corporate Services 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:	Office of Councillor Pam MacConnell				Councillor:					
Contact Name:	Tom Davidson – November 2, 2017				Contact Name:					
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail	<input type="checkbox"/>	Memo	<input type="checkbox"/>	Other	<input type="checkbox"/>		
Comments:	No objections				Comments:					
Consultation with ABCDs										
Division:	Transportation Services				Division:	Financial Planning				
Contact Name:	Laurie Robertson / Jeffrey Dea – Nov. 1, 2017				Contact Name:	Patricia Libardo – November 3, 2017				
Comments:	Included				Comments:	Included				
Legal Division Contact										
Contact Name:	David Eveline – November 1, 2017									
DAF Tracking No.: 2017- 289			Date			Signature				
Recommended by: Manager			Nov. 3, 2017			Nick Simos				
<input type="checkbox"/>	Recommended		Director of Real Estate Services David Jollimore			Nov. 3, 2017			David Jollimore	
<input type="checkbox"/>	Approved by:									
<input checked="" type="checkbox"/>	Approved by:		Deputy City Manager, Internal Corporate Services Josie Scioli			Nov. 3, 2017			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 Deputy City Manager, Internal Corporate Services, in consultation with any other 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-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, 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

In accordance with the City's Real Estate Disposal By-law, No. 814-2007, the City Lands were declared surplus on August 8, 2017 (DAF No. 2017-207) with the intended manner of disposal to be by inviting an offer to purchase from Menkes Development Ltd. All steps necessary to comply with the City's real estate disposal process as set out in Chapter 213 of the City of Toronto Municipal Code have been complied with. The City Lands were not acquired through expropriation proceedings. This exchange of land would facilitate the realignment of Cooper Street near Queens Quay East.

Staff consider the proposed transaction to be in the City's interests and recommend that it be approved.

Major Terms and Conditions

Transfer:

The transfer of the City Lands is subject to easements to be granted by the City on or before Closing, to Bell Canada, Enbridge and Group Telecom.

Environmental Release:

The Developer agrees to release the City from all claims in regard to any Hazardous relating to the City Lands, shall not attempt to compel the City to remove or remediate any Hazardous Substance on the City Lands, and shall not seek damages in connection with any Hazardous Substance.

"As is" Condition:

The Developer shall accept the City Lands in "as is" condition and shall not be required to provide any warranty or representation with respect to the physical or environmental condition of the City Lands or of any buildings or structures on the City Lands.

The City shall accept the Menkes Lands in "as is" condition and shall not be required to provide any warranty or representation with respect to the physical or environmental condition of the Menkes Lands or of any buildings or structures on the Menkes Lands.

Pre-Closing Condition:

The obligation of the parties to complete this Agreement is conditional on City Council having passed the Closure By-law.

Title Opinion:

The Developer shall on closing provide a title opinion regarding the Menkes Lands.

Due Diligence Period:

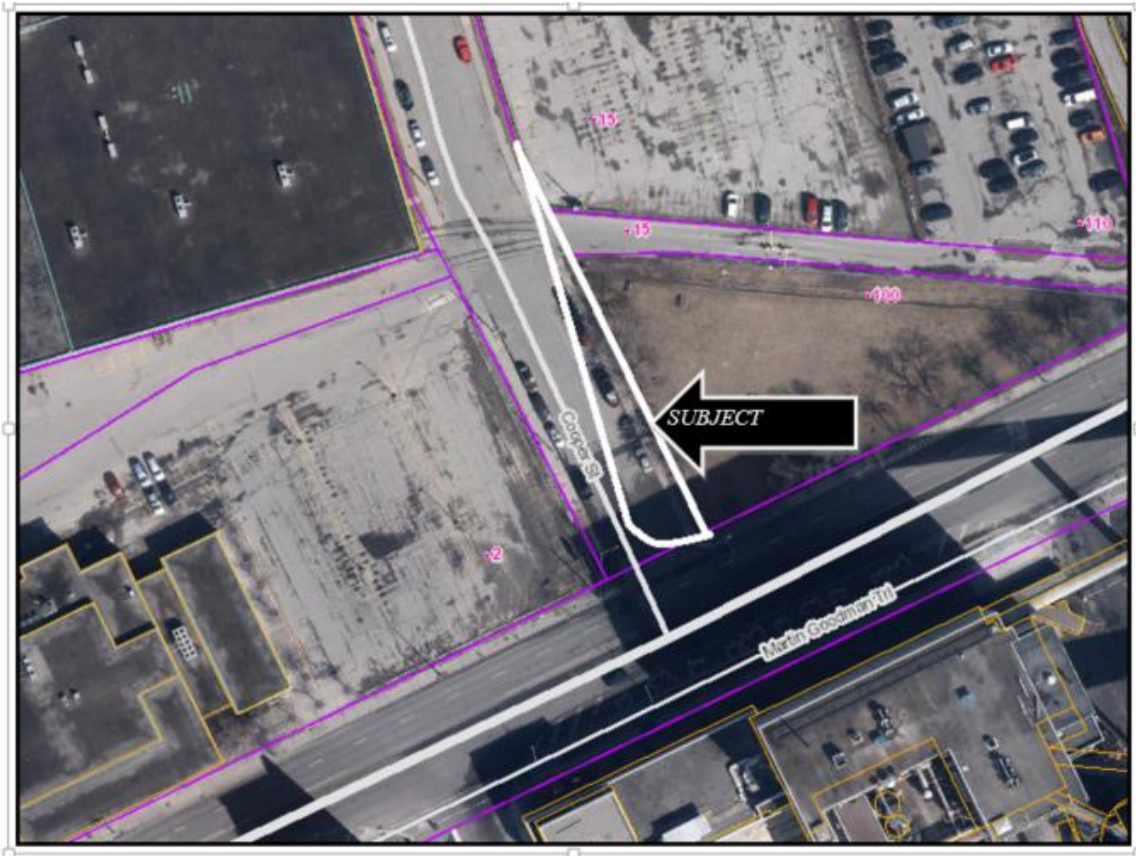
30 days after the execution of the agreement by the City

Closing Date:

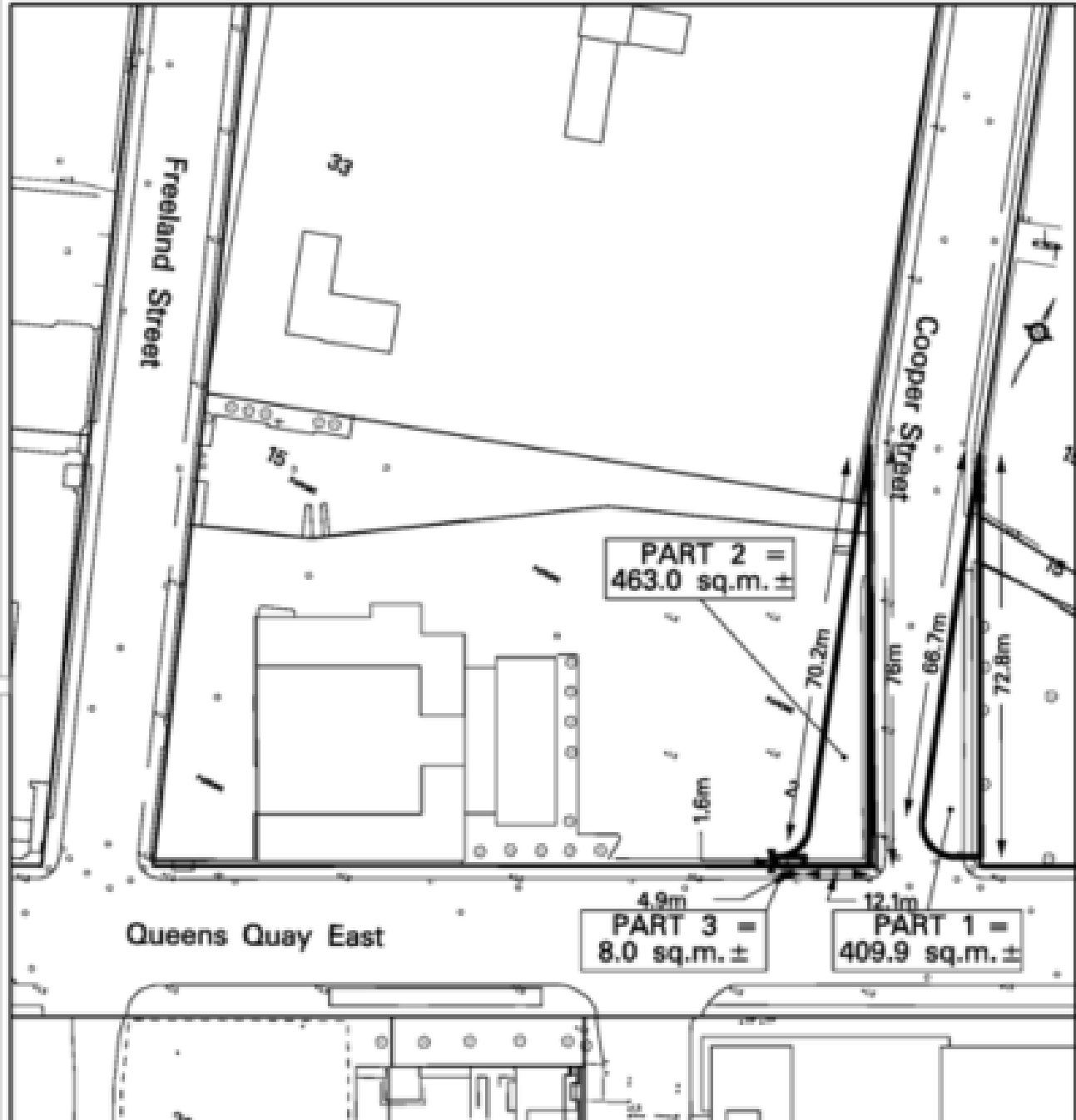
Land Transfer Tax:

The Developer shall pay any Land Transfer Tax payable on the transfer of the City Lands to the Developer. The City shall pay any Land Transfer Tax payable on the transfer of the Menkes Lands to the City.

Appendix "A"



Attachment 2 - Sketch No. PS-2017-026



PROPERTY INFORMATION SHEET

SKETCH SHOWING A PORTION OF COOPER STREET (PART 1) AND PORTIONS OF NO. 55 LAKE SHORE BOULEVARD EAST (PARTS 2 AND 3)

NOTE:
THIS SKETCH HAS BEEN COMPILED FROM OFFICE RECORDS. MEASUREMENTS ARE APPROXIMATE.

CHECK BY JOHN HOUSE
PREPARED BY DIANEYNE PITT

WARD 28 - TORONTO CENTRE-ROSEDALE
DATE: MARCH 22, 2017

SKETCH No. PS-2017-026