

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:	Patricia Palmieri	Division:	Real Estate Services
Date Prepared:	December 12, 2017	Phone No.:	416-392-4829

Purpose	To authorize the release and discharge of an existing easement (the "Original Easement") in exchange for a new permanent easement between the City of Toronto, Toronto Transit Commission (collectively known as the Transferee) and Coal Harbour Properties Ltd. (the "Transferor") over a portion of lands located at 390 Queens Quay West.
Property	A portion of 350, 370 and 390 Queens Quay West located in the City of Toronto which comprise Part of PIN 21419-0128 (LT) being Parts 1, 2, 3, 3, 5 and 6 on Plan 66R-29351, City of Toronto (known as the "New Easement Lands")
Actions	It is recommended that: <ol style="list-style-type: none"> Authority be granted for the Transferee to release and discharge the Original Easement in exchange for certain rights and permissions over the New Easement Lands with the Transferor, substantially on the terms and conditions outlined in Appendix "A" and on such other terms and conditions as may be acceptable to the Director of Real Estate and in a form satisfactory to the City Solicitor. The City Solicitor be 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. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.
Financial Impact	The cost to the City to enter into the easement agreement is \$17,502.72 (net of HST recoveries). Funding is available in the 2017 Council Approved Capital Budget and 2018-2026 Capital Plan for the Toronto Transit Commission (TTC) under capital account CTT003. The Acting Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.
Comments	The Toronto Transit Commission has modified the streetcar track for the Harbourfront LRT within the Transferor's lands, and has installed a support pole and related appurtenances which form part of the streetcar overhead support system on a portion of the Transferor's land that are not within the lands described in the Original Easement. The Transferee has agreed to release and discharge the Original Easement in exchange for certain rights and permissions over the New Easement Lands as set out in Appendix "A".
Terms	See Appendix "A"

Property Details	Ward:	Ward 20 – Trinity-Spadina
	Assessment Roll No.:	n/a
	Approximate Area:	Irregular

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 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 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 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 checked="" 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 checked="" 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. 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:	Councillor Joe Cressy					Councillor:									
Contact Name:	Lia Brewer					Contact Name:									
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	Concurs					Comments:									
Consultation with ABCDs															
Division:	TTC					Division:	Financial Planning								
Contact Name:	Pamela Kraft					Contact Name:	Patricia Libardo								
Comments:	Concurs					Comments:	Concurs								
Legal Division Contact															
Contact Name:	Lisa Davies														
DAF Tracking No.: 2017- 341					Date		Signature								
Recommended by: Manager, Tim Park					December 14 th , 2017		Signed By: Tim Park								
<input type="checkbox"/>	Recommended by: Director of Real Estate Services				December 19 th , 2017		Signed By: David Jollimore								
<input checked="" type="checkbox"/>	Approved by: David Jollimore														
<input type="checkbox"/>	Approved by: Deputy City Manager, Internal Corporate Services						X								
	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.

Appendix "A"

TERMS & CONDITIONS

Transferee's Lands:

Parts of 390 Queens Quay W, being legally described as Parcel block V-2, Section A536E being Part Block V, Plan 536E, Part Block W, Plan 536E, Toronto being Parts 12, 17 and 18 on Plan 66R-14519, Parcel S-3, Section A536E, being Part Block S, Plan 536E, Part Block T, Plan 536E, Part Block U Plan 536E, Part Block V, Plan 536E, being Parts 2,6, 10 and 11 on 66R-14519, Parcel Block G-4, Section AD1397 being Part Block S, Plan 536E, Part Block T, Plan 536E, Part Block G, Plan D1397, being Part 1 on Plan 66R-13715 saving and excepting and reserving unto her Majesty the Queen in the Right of Canada upon the said lands set out in C204912, Parcel S-4, Section A536E, being Part Block S, Plan 536E, Parts 1, 5 and 9 on 66R-14519, being Queens Quay West, Parcel S-5, Section A536E, Part Block S, Plan 536E, Part Block F, Plan D1397 being Part 43, Plan 66R-15446 City of Toronto, being all of 21419-0018 (LT) (collectively known as the "Transferee's Lands")

Original Easement legal description:

Over a portion of 350, 370 and 390 Queens Quay West located in the City of Toronto which comprise Part of PIN 21419-0128 (LT) (previously part of PIN 21419-0016 (LT) and part of PIN 21419-0003 (LT), as described in Instrument C890925 (collectively known as the "Original Easement").

New Easement Lands legal description:

Over a portion of 350, 370 and 390 Queens Quay West located in the City of Toronto which comprise as Part of PIN 21419-0128 (LT), being Parts 1, 2, 3, 4, 5 and 6 on Reference Plan No. 66R29351 (collectively known as the "New Easement Lands")

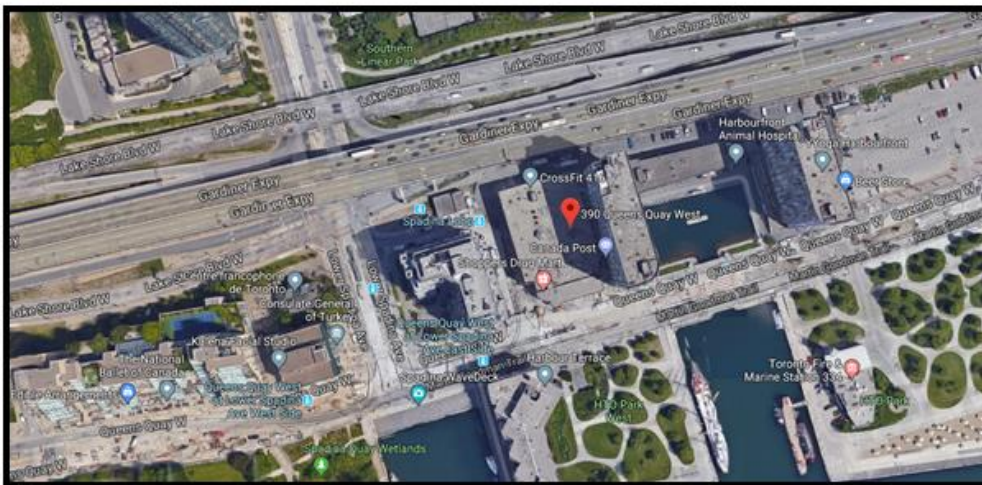
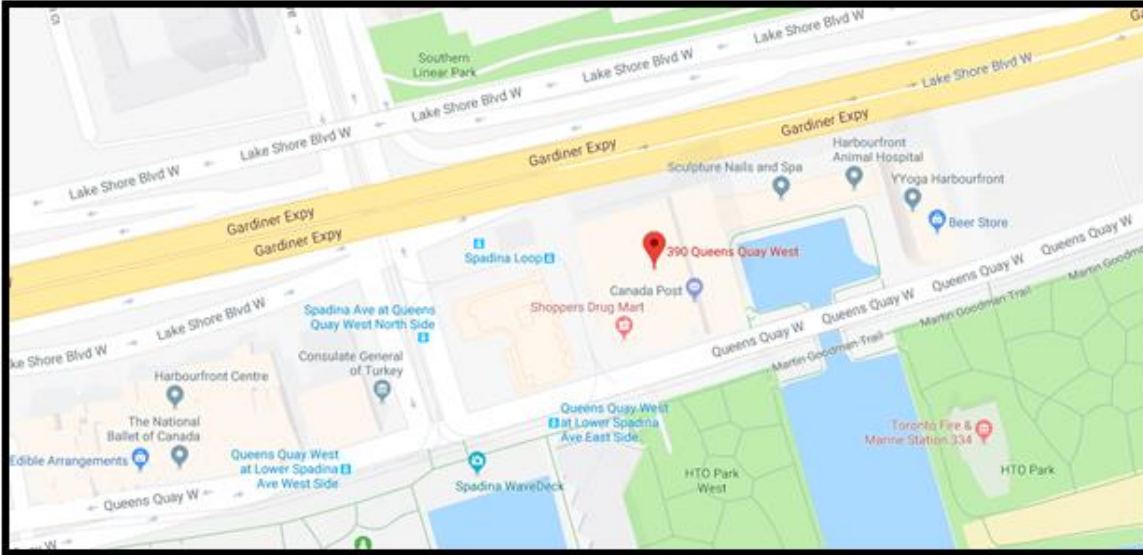
Consideration:

\$17,200.00 (net of HST recoveries) and any reasonable and approved Legal Costs.

Terms and Conditions:

1. The Transferor hereby transfers, grants and conveys to the Transferee, its successors and assigns, as an appurtenance to and for the benefit of all or any part of the Transferee's Lands, and for use by the Transferee and its contractors, subcontractors, consultants, employees, invitees, agents and servants (collectively, the "Representatives"), a free and uninterrupted easement or right in the nature of an easement in perpetuity (the "Easement") in, on, over, along, upon and through the New Easement Lands to operate, maintain, alter, expand, remove, replace, reconstruct and repair the TTC lateral streetcar overhead support system which includes anchors, wires, poles, supports and related appurtenances ancillary to the support system.
2. The Easement shall be transferred to the Transferee on the business day next following thirty (30) days after the last of the parties has executed the easement agreement or on such other date as may be agreed to in writing by the parties or their solicitors who are expressly authorized in that regard.
3. In the event that the perpetual duration of the Easement is precluded by the statute or common law, the Easement will expire Nine Hundred and Ninety Nine (999) years from the date of registration of its registration on title to the Transferor's lands.
4. The Easement shall include the right of ingress and egress over the New Easement Lands for the Transferee and its Representatives, with all necessary vehicles, supplies, tools, machinery and equipment, and the right of the Transferee and its Representatives to secure and occupy any or all of the New easement Lands, for all purposes necessary or incidental to the exercise and enjoyment of the rights hereby granted.

Location Map



Reference Plan

