

**DELEGATED APPROVAL FORM
CITY MANAGER
DEPUTY CITY MANAGER, INTERNAL CORPORATE SERVICES**

TRACKING NO.: 2018-042

Approved pursuant to the Delegated Authority contained in Executive Committee Item EX27.12, as adopted by City Council on October 2, 3 and 4, 2017 or, where applicable, in Executive Committee Item EX28.8, as adopted by City Council on November 7, 8 and 9, 2017

Prepared By:	Leila Valenzuela	Division:	Real Estate Services
Date Prepared:	January 29, 2018	Phone No.:	416-392-7174

Purpose	To obtain authority to enter into a licence renewal agreement (the "Agreement") with Her Majesty the Queen in Right of Ontario as represented by the Minister of Infrastructure (the "Licensor") for certain hydro corridor lands for the purposes of the Kipling Station north commuter parking lot (the "Parking Lot").																																										
Property	Hydro corridor lands located south of Dundas Street West and west of Aukland Avenue, legally described as Parts 36, 37, 38, 39, 40, 41 and 42 on Reference Plan 64R-12117 and shown in Appendix "A" (the "Property")																																										
Actions	<ol style="list-style-type: none"> 1. Authority be granted to enter into the Agreement with the Licensor for the use of the Property, substantially on the terms set out herein, and such other terms as are acceptable to the Deputy City Manager of Internal Corporate Services ("DCM") and in a form acceptable to the City Solicitor; 2. The DCM administer and manage the Agreement, including the provision of any consent, approvals, waivers, notices and notices of termination provided that the DCM may, at any time, refer consideration of such matter to City Council for its determination and direction; and 3. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto. 																																										
Financial Impact	<p>The total cost to the City over the 5-year term is estimated to be \$1,062,184 (net of HST recoveries) which is based on an annual fee of \$155,720 plus realty taxes. Total annual cost to the City is detailed below.</p> <p>Funding is available in the 2017 Council Approved Operating Budget for Toronto Transit Commission (TTC) for 2017 Hydro One Network Inc./Ontario Infrastructure Lands Corporation (HONI/OILC) license fees and related taxes under cost centre #TT0010. Funding is available in the 2018 Preliminary Operating Budget for the TTC for 2018 – 2020 HONI/OILC license fees and related taxes under cost centre #TT0010. Fees related to 2021 will be referred to the 2019 Budget Process.</p> <table border="1"> <thead> <tr> <th></th> <th>Licence Fee</th> <th>Estimated Realty Tax *</th> <th>Total Licence Fee & Est. Realty Tax</th> <th>Non-recoverable HST (HST 1.76%)</th> <th>Grand Total incl. Non-recoverable HST</th> </tr> </thead> <tbody> <tr> <td>2017 Jan1 - Dec 31</td> <td>\$ 155,720</td> <td>\$ 49,954</td> <td>\$ 205,674</td> <td>\$ 3,620</td> <td>\$ 209,294</td> </tr> <tr> <td>2018 Jan1 - Dec 31</td> <td>\$ 155,720</td> <td>\$ 51,453</td> <td>\$ 207,173</td> <td>\$ 3,646</td> <td>\$ 210,819</td> </tr> <tr> <td>2019 Jan1 - Dec 31</td> <td>\$ 155,720</td> <td>\$ 52,996</td> <td>\$ 208,716</td> <td>\$ 3,673</td> <td>\$ 212,390</td> </tr> <tr> <td>2020 Jan1 - Dec 31</td> <td>\$ 155,720</td> <td>\$ 54,586</td> <td>\$ 210,306</td> <td>\$ 3,701</td> <td>\$ 214,007</td> </tr> <tr> <td>2021 Jan1 - Dec 31</td> <td>\$ 155,720</td> <td>\$ 56,224</td> <td>\$ 211,944</td> <td>\$ 3,730</td> <td>\$ 215,674</td> </tr> <tr> <td></td> <td>\$ 778,600</td> <td>\$ 265,213</td> <td>\$ 1,043,813</td> <td>\$ 18,371</td> <td>\$ 1,062,184</td> </tr> </tbody> </table> <p>* The 2017 realty tax is based on actual realty tax share billed to the City. To estimate 2018 to 2021 realty taxes, 3% escalation rate is used</p>		Licence Fee	Estimated Realty Tax *	Total Licence Fee & Est. Realty Tax	Non-recoverable HST (HST 1.76%)	Grand Total incl. Non-recoverable HST	2017 Jan1 - Dec 31	\$ 155,720	\$ 49,954	\$ 205,674	\$ 3,620	\$ 209,294	2018 Jan1 - Dec 31	\$ 155,720	\$ 51,453	\$ 207,173	\$ 3,646	\$ 210,819	2019 Jan1 - Dec 31	\$ 155,720	\$ 52,996	\$ 208,716	\$ 3,673	\$ 212,390	2020 Jan1 - Dec 31	\$ 155,720	\$ 54,586	\$ 210,306	\$ 3,701	\$ 214,007	2021 Jan1 - Dec 31	\$ 155,720	\$ 56,224	\$ 211,944	\$ 3,730	\$ 215,674		\$ 778,600	\$ 265,213	\$ 1,043,813	\$ 18,371	\$ 1,062,184
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Comments	<p>The Acting Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p> <p>The Property has been under a licence with Ontario Hydro (now Her Majesty the Queen in Right of Ontario as represented by the Minister of Infrastructure) since 1979 for the purposes of the Parking Lot. Authority for the past agreements can be traced back through the exercise of a lengthy series of Council as well as standing delegated authorities. The most recent authority was through City Council by its adoption of Government Management Committee Item No. GM10.7 on February 6 and 7, 2012, which recommended a new licence agreement with the Licensor for a term of 5 years from January 1, 2012 until December 31, 2017.</p> <p>The 2012 licence agreement included renewal rights subject to a mutually satisfactory licence fee and amounts in respect of the Licensee's contribution to taxes. The parties have now agreed to the terms and condition of the renewal of the licence as set out on Appendix "B".</p> <p>On December 11, 2017, the TTC Board approved the proposed terms and conditions of the Agreement, and has set aside a budget to fund the subject fees and related taxes. Real Estate Services staff consider the terms and conditions of the Agreement, as detailed on Page 5 of this form, to be fair and reasonable, and at market rates.</p>																																										
Terms	See Appendix "B" on page 5																																										

Property Details	Ward:	5 – Etobicoke-Lakeshore
	Assessment Roll No.:	1919-03-8-980-00102
	Approximate Size:	Irregular
	Approximate Area:	3.042 acres
	Other Information:	

A.	Deputy City Manager, Internal Corporate Services has approval authority for:	City Manager 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 Divisions and Agencies:</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 \$5 Million.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$5 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 Divisions and Agencies.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 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 checked="" type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$5 Million.</p> <p><input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding twelve (12) months, including licences for environmental assessments and/or testing, etc.</p> <p><input type="checkbox"/> (c) Where compensation is less than market value, provided tenant and lease satisfy Community Space Tenancy Policy criteria set out in Item EX28.8, as adopted by Council on November 7, 8 and 9, 2017.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$5 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 Million.</p> <p><input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).</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 \$10 Million.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$10 Million.</p> <p>Delegated to a less senior position.</p> <p>Delegated to a less senior position.</p> <p>Delegated to a less senior position.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$10 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$10 Million.</p> <p>Delegated to a less senior position.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$10 Million.</p> <p>Delegated to a less senior position.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$10 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$10 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$10 Million.</p> <p><input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).</p> <p>Delegated to a less senior position.</p>

<p>B. City Manager and Deputy Manager, Internal Corporate Services each has signing authority on behalf of the City for:</p> <ul style="list-style-type: none"> • Documents required to implement matters for which he or she also has delegated approval authority.
<p>Deputy City Manager, Internal Corporate Services also has signing authority on behalf of the City for:</p>
<ul style="list-style-type: none"> • Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval. • Expropriation Applications and Notices following Council approval of expropriation.

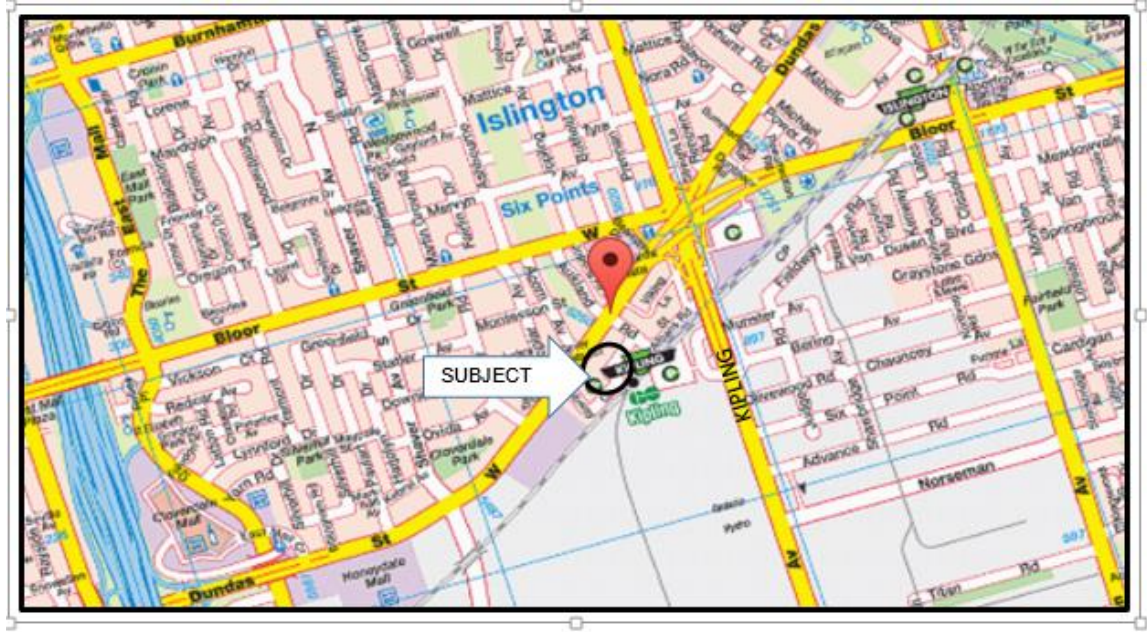
Consultation with Councillor(s)															
Councillor:	Councillor Justin Di Ciano					Councillor:									
Contact Name:	Mary Campbell, EA					Contact Name:									
Contacted by:	Phone	x	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	Fine with the renewal					Comments:									
Consultation with Divisions and/or Agencies															
Division:	TTC					Division:	Financial Planning								
Contact Name:	Graham Tulett					Contact Name:	Patricia Libardo								
Comments:	Comments have been incorporated					Comments:	Comments have been incorporated								
Legal Division Contact															
Contact Name:	Bronwyn Atkinson (01/25/18)														

DAF Tracking No.: 2018- 042	Date	Signature
Recommended by: Manager, Real Estate Services, Nick Simos	Jan/29/2018	Sgd.\ Nick Simos
Recommended by: Director, Real Estate Services, David Jollimore	Jan/31/ 2018	Sgd.\ David Jollimore
<input checked="" type="checkbox"/> Recommended by: Deputy City Manager, Internal Corporate Services	Feb/1/2018	Sgd.\ Josie Scioli
<input checked="" type="checkbox"/> Approved by: Josie Scioli		
<input type="checkbox"/> Approved by: City Manager, Peter Wallace		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. In the event of a vacancy in the Ward in which the subject property is located, the Mayor's office shall be consulted in the alternative.
- (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 as defined in the *Toronto Waterfront Revitalization Corporation Act, 2002* 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 of City Planning, 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, as leases of 21 years or more may be authorized based on the delegated Approving Authority for disposals in **A.7**.
- (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, including ancillary agreements, 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) 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.
- (aa) All residential leasing documents shall adhere to the *Residential Tenancies Act, 2006* and any successor legislation.
- (bb) Despite GC(n), Approving Authority in residential leasing matters is not limited to periods of less than twenty-one (21) years and total compensation in residential leasing matters where the City is landlord is to be calculated based on an assumed term of ten years unless the lease term expressly identified therein is longer.
- (cc) Where Approving Authority has been delegated to the Manager level, such authority shall be conditional upon the Manager first having secured the written concurrence of a second Manager within the Real Estate Services Division.

APPENDIX "A"
Location Map and Sketch



 Lands Owned by Her Majesty the Queen in the Right of Ontario

 Licence Lands

Appendix "B"

Key terms of the Agreement between the Licensor and the City for the Kipling Station north commuter parking lot on hydro corridor lands

Licensor:	Her Majesty the Queen in Right of Ontario as represented by the Minister of Infrastructure
Licensee:	City of Toronto
Occupant:	Toronto Transit Commission – commuter parking lot
Lands:	Hydro corridor lands south of Dundas Street West and west of Auckland Avenue, legally described as Parts 36, 37, 38, 39, 40, 41 and 42 on Reference Plan 64R-12117 and shown on Appendix "A"
Use:	For the operation of the Kipling station north commuter parking lot
Term:	Five (5) years commencing on January 1, 2017, and ending on December 31, 2021
Licensed Area:	3.042 acres
Licensed Fee:	\$155,720 per annum + HST
Realty Taxes:	City will be responsible for payment of 75% of the realty taxes for the entire licence area + HST
Insurance:	Liability insurance in the amount of \$5,000,000.00
Termination Provision:	Either party may terminate upon ninety (90) days' prior written notice to the other party
Indemnity:	The City will indemnify the Licensor against all claims and will release the Licensor from any claims arising from the Agreement. This is a stringent indemnity in the Licensor's favour, and has been authorized by City Council by its adoption of Government Management Committee Item No. 20.8 on April 3 and 4, 2013.