

DELEGATED APPROVAL FORM
DIRECTOR, REAL ESTATE SERVICES
MANAGER, REAL ESTATE SERVICES

TRACKING NO.: 2018-018

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:	Mike Saffran	Division:	Real Estate Services
Date Prepared:	January 30, 2018	Phone No.:	(416) 392-7205

Purpose	To obtain authority to grant a permanent sub-surface easement through portions of High Level Pumping Station Park to Toronto Hydro-Electric System Limited ("Toronto Hydro") for the purpose of housing underground transmission cable.
Property	A portion of High Level Pumping Station Park, municipally known as 235 Cottingham Street and 300 MacPherson Avenue, legally described as part of Lot 23, Concession 2 From The Bay, Township of York, being Part 1 and Part 2 on Plan 63R-1366, City of Toronto (being part of PIN No. 21218-0351); and Parcel 109-1, Section M18; Lot 109, Plan M18 Toronto and part of Lot 110, Plan M18, Toronto being Part 2 and Part 3 on Plan 66R-9581 City of Toronto, (being part of PIN No. 21218-0089), shown as a sub-surface strata being Parts 1 and 2 on 66R-28637, (the "Property") on the attached Schedule "A".
Actions	<ol style="list-style-type: none"> 1. Authority be given to grant a permanent sub-surface easement over the Property to Toronto Hydro substantially on the terms and conditions outlined herein and on such further and other terms as may be acceptable to the Deputy City Manager, Internal Corporate Services and in a form satisfactory to the City Solicitor. 2. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.
Financial Impact	Revenue in the amount of \$456,730.00, exclusive of HST is anticipated from the grant of the permanent sub-surface easement. The proceeds will be contributed to the Land Acquisition Reserve Fund (X1012) upon registration of the transaction.
Comments	<p>The Acting Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p> <p>Toronto Hydro has been in the process of upgrading and improving the electrical supply in the midtown area of the City of Toronto. As a result it has identified the Property as a sub-surface easement requirement, to allow for a tunnel corridor to its own facility located at 325 MacPherson Avenue.</p> <p>Originally, Toronto Hydro requested a permanent easement over the Property, however, a temporary easement agreement was authorized by the Director of Real Estate Services on September 5, 2014 in DAF 2014-228. The temporary easement with a two year term allowed Toronto Hydro to obtain and receive an Official Plan Amendment ("OPA") as the Property is within the Parks and Open Space Areas and any disposal of City-owned property, including granting an easement over 21 years, is prohibited in the Official Plan.</p> <p>At its meeting of May 3 and 4, 2016, City Council adopted with amendment, Item TE15.7 which amended the Official Plan for the Property and Area Specific Policy No. 265. On June 8, 2016, By-law No. 449-016 came in to full force and effect.</p> <p>Toronto Hydro has obtained an OPA, and is now seeking its original request of a permanent sub-service easement over the Property. In accordance with the City's Real Estate Disposal By-law, No. 814-2007, the Property was declared surplus by the then CCO on August 14, 2017 (DAF No. 2017-018) with the intended manner of disposal to be by way of granting a permanent sub-surface easement to Toronto Hydro at fair market value.</p> <p>The attached terms and conditions are considered fair and reasonable and the payment by Toronto Hydro is considered reflective of market value.</p>
Terms	See page 4

Property Details	Ward:	22 – St Paul's
	Assessment Roll No.:	Portions of 1904-05-4-180-01200 & 1904-05-4-180-04600
	Approximate Area:	606.5 m ² (6,528.5 ft ²)
	Other Information:	Current use – High Level Pumping Station Park at grade

A.	Manager, Real Estate Services has approval authority for:	Director, Real Estate Services has approval authority for:
<p>1. Acquisitions:</p> <p>2. Expropriations:</p> <p>3. Issuance of RFPs/REOIs:</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 \$50,000.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$50,000.</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 \$50,000.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to a more senior position.</p> <p><input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$50,000.</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>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$50,000.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to a more senior position.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</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"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.</p> <p><input type="checkbox"/> Issuance of RFPs/REOIs.</p> <p><input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.</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><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 \$1 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>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.</p> <p><input checked="" type="checkbox"/> (a) Where total compensation does not exceed \$1 Million.</p> <p><input type="checkbox"/> (b) When closing roads, 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 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/Caution</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. Director, Real Estate Services and Manager, Real Estate Services each has signing authority on behalf of the City for:

- Documents required to implement matters for which he or she also has delegated approval authority.
- Expropriation Applications and Notices following Council approval of expropriation (Manager, Acquisitions & Expropriations is only Manager with such signing authority).

Director, Real Estate Services also has signing authority on behalf of the City for:

- Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.
- Community Space Tenancy Leases approved by delegated authority by Deputy City Manager, Internal Corporal Services and any related documents.

Consultation with Councillor(s)									
Councillor:	Josh Matlow				Councillor:				
Contact Name:	Andrew Athanasiu				Contact Name:				
Contacted by:	<input checked="" type="checkbox"/> Phone	<input checked="" type="checkbox"/> E-Mail	<input type="checkbox"/> Memo	<input type="checkbox"/> Other	Contacted by:	<input type="checkbox"/> Phone	<input type="checkbox"/> E-mail	<input type="checkbox"/> Memo	<input type="checkbox"/> Other
Comments:	No objection – January 26, 2018				Comments:				
Consultation with Divisions and/or Agencies									
Division:	Parks, Forestry & Rec / Toronto Water				Division:	Financial Planning			
Contact Name:	D Douglas, M Filice / Mike Brannon				Contact Name:	Patricia Libardo			
Comments:	December 5, 2017 / December 4, 2017				Comments:	Concurs with FIS – January 29, 2018			
Legal Division Contact									
Contact Name:	Lisa Davies – November 28, 2017								

DAF Tracking No.: 2018-018	Date	Signature
Recommended by:		
<input type="checkbox"/> Recommended by: Manager, Real Estate Services Nick Simos	Jan. 30, 2018	Signed by Nick Simos
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Director, Real Estate Services David Jollimore	Feb. 2, 2018	Signed by David Jollimore

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.

Terms and Conditions

- (i) Term – perpetuity;
- (ii) A payment by Toronto Hydro to the City of \$456,730.00, exclusive of HST;
- (iii) Toronto Hydro shall at all times, at its expense, keep and maintain the Property in a safe condition and good state of repair and shall from time to time, at its expense, repair any damage, erosion or deterioration of the Property caused by the existence, inspection, maintenance, repair, alteration or reconstruction of the Works; such repair to be completed to the satisfaction of the Transferor's General Manager, Parks, Forestry & Recreation, or her successor, acting reasonably; and
- (v) Toronto Hydro shall at all times indemnify and save harmless the City of Toronto and its elected officials, directors, officers, employees, agents, representatives, successors and assigns and those for whom at law each of them is responsible from and against and all claims, demands, damages, losses, costs (including the costs of their respective solicitors of defending any such claims), charges, proceeds and actions.

Schedule "A"



