

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

TRACKING NO.: 2017-129

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:	Jin Han	Division:	Real Estate Services
Date Prepared:	February 26, 2017	Phone No.:	(416) 338-1297

Purpose	To obtain authority to consent, pursuant to s. 15.1 of the Lease Agreement, dated September 1 st , 2012 (the " Lease "), of City Decommissioned Pipe System for Telecommunications Purpose between the City of Toronto and Allstream Inc. (now Zayo Canada Inc.), to the deemed assignment arising as a result of change of effective control of the Allstream Inc., through the sale of its shares to Zayo Group, LLC, pursuant to a share purchase agreement, dated November 20, 2015 (the " SPA ").
Property	Decommissioned high pressure water pipe system, comprising about 17 km in total length, installed in the downtown core area, largely bounded by Front Street, Bathurst Street, Queen Street West and Jarvis Street, with a northward extension as far as Dundas Street in the vicinity of the Eaton Centre, as indicated in Appendix "B".
Actions	<ol style="list-style-type: none"> Authority be granted for the City to execute and deliver a consent to Zayo Canada Inc. (as successor, by operation of law, of Allstream Inc.), for the sale of shares of Allstream Inc. to Zayo Group, LLC, in accordance with the Lease, together with such other terms and conditions as may be satisfactory to the Chief Corporate Officer (including that Zayo Canada Inc., as successor of Allstream Inc. by operation of law as a result of the Amalgamation (explained in Appendix "A"), by accepting this consent, acknowledges that it shall remain responsible and liable for all covenants, obligations and agreements in and arising out of the Lease notwithstanding the change in the effective control arising as a result of the SPA and notwithstanding the Amalgamation) and in form applicable to the City Solicitor. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.
Financial Impact	<p>There are no financial implications resulting from this approval.</p> <p>The Deputy City Manager & Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>An agreement for the lease of the decommissioned water pipe and a license for the use of public highways beyond the pipe system was signed in 1997 (subsequently amended in 1998 to allow expanded coverage throughout the amalgamated City of Toronto) with the firm called MTS Allstream (formerly Metronet Communications Group when the 1997 lease was signed). The Agreement had a 15-year term, with expiry at the end of August, 2012.</p> <p>Pursuant to adopted item "PW27.9" on December 16, 2013, the City Council approved entering into separate agreements with MTS Allstream for the renewal of the "Lease of City Decommissioned Underground Pipe System" for a term of 15 years from the effective date of September 1, 2012 and a Municipal Access Agreement (the "MAA") to authorize the construction, installation, maintenance and operation of a telecommunications network in the City of Toronto public highways.</p> <p>Zayo Canada Inc.'s legal counsel has confirmed in writing that effective January 1, 2012, MTS Allstream Inc. changed its name to MTS Inc. and transferred its business previously operated by its Allstream division to its then-affiliate Allstream Inc.</p> <p>In 2016, Allstream Inc. underwent a number of corporate changes and consent is required for the sale of shares as it is considered a deemed assignment under the terms of the Lease. Refer to Appendix "A" for a summary of the corporate changes.</p> <p>This form is not required for the consent to the deemed assignment of the MAA. As per adopted item "PW1.6", the City Council delegated authority to consent to any future Assignment under a MAA as the result of a change in control of a company, or acquisition of its assets, to the General Manager, Transportation Services, after consulting with the City Solicitor and the Deputy City Manager & Chief Financial Officer, where it is determined that there is no financial impact of the proposed change to the City, and all provisions of the agreement continue to be in force and effect.</p>
Terms	<p>The City consents to the change of effective control in Allstream Inc. arising out of the share purchase agreement.</p> <p>Zayo Canada Inc., as successor of Allstream Inc. by operation of law as a result of the Amalgamation (as defined in Appendix "A"), by accepting this consent, acknowledges that it remains bound by the Lease.</p> <p>The City does not acknowledge or approve any of the terms of the share purchase agreement or any other corporate change.</p>

Property Details	Ward:	27 - Toronto Centre-Rosedale; 28 - Toronto Centre-Rosedale; 20 - Trinity-Spadina
	Assessment Roll No.:	
	Approximate Size:	
	Approximate Area:	
	Other Information:	

A.	Director of Real Estate Services has approval authority for:	Chief Corporate Officer 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/REOs:	Delegated to a more senior position.	<input type="checkbox"/> Issuance of RFPs/REOs.
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: 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"/> (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 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 checked="" 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.	<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. Chief Corporate Officer and Director of Real Estate Services each has signing authority on behalf of the City for:	
<input type="checkbox"/> 1. Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.	<input checked="" type="checkbox"/> 3. Documents required to implement the delegated approval exercised by him or her.

Chief Corporate Officer also has approval authority for:	
<input type="checkbox"/> 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 (Ward 27)				Councillor:	Joe Cressy (20); Pam McConnell (28)									
Contact Name:	Melissa Wong (27)				Contact Name:	Brent Gilliard (20); Tom Davidson (28)									
Contacted by:	Phone	X	E-Mail		Memo		Other	Contacted by:	Phone	X	E-mail		Memo		Other
Comments:	Proceed				Comments:	Proceed									
Consultation with ABCDs															
Division:	Candice Martins				Division:	Financial Assessment									
Contact Name:	Transportation Services				Contact Name:	Filisha Jenkins									
Comments:	Proceed				Comments:	Proceed									
Legal Division Contact															
Contact Name:	Katherine Frankl														
DAF Tracking No.: 2017-129					Date		Signature								
Recommended by: Manager, Leasing & Site Management					May/9/2017		Sqd.\ Wayne Duong								
<input type="checkbox"/>	Recommended by: Director of Real Estate Services Joe Casali				May/15/2017		Sgd.\ Joe Casali								
<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-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" - Summary of Corporate Events

The following comprise a series of corporate changes affecting Zayo Canada Inc. and references to key sections of the Lease pertaining to consent for an assignment:

- A. Effective January 15, 2016, the sale of Allstream Inc.'s shares to Zayo Group, LLC was completed pursuant to the SPA;
- B. Effective March 15, 2016, Allstream Inc. changed its name to Zayo Canada Inc.;
- C. Effective June 30, 2016, Zayo Canada Inc. amalgamated with its affiliates under the *Canada Business Corporations Act* (the "**Amalgamation**") into the amalgamated corporation Zayo Group Canada Inc. (the "**Amalgamated Corporation**");
- D. Pursuant to s. 186 of the *Canada Business Corporations Act*, on the date shown in the certificate of amalgamation, the Amalgamated Corporation continues to be liable for the obligations of each amalgamated corporation and an existing cause of action, claim or liability to prosecution is unaffected. The Amalgamated Corporation is the successor to the Lease by operation of law.
- E. Effective June 30, 2016, Zayo Group Canada Inc. changed its name to Zayo Canada Inc.;
- F. Subsection 15.1(a) of the Lease provides, in part, that the Company (as defined in the Lease) shall not assign its rights under the Lease without the consent of the Lessor, which consent shall not be unreasonably withheld or delayed; and
- G. Subsection 15.1(b) of the Lease provides, in part, that any actual change in effective control in the Company (as that term is defined in the Lease) resulting from any transfer or sale of all or a substantial part of the voting shares of the Company (as that term is defined in the Lease) after the date this Lease is executed shall be deemed to be an assignment for the purposes of that section of the Lease and is subject to the restrictions therein.

