

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

TRACKING NO.: 2018-313

Approved pursuant to the Delegated Authority contained in Item EX27.12, as adopted by City Council on October 2, 3 & 4, 2017, as amended by Item GM27.12, adopted by City Council on May 22, 23 & 24, 2018 or, where applicable, in Item EX28.8, as adopted by City Council on November 7, 8 & 9, 2017.

Prepared By:	Bruno Iozzo	Division:	Real Estate Services
Date Prepared:	September 11, 2018	Phone No.:	(416) 392-8151

Purpose	To obtain authority for the City of Toronto (the "City") to enter into a licence agreement (the "Agreement") with 390 Dufferin Residences LP, by its general partner, 390 Dufferin GP Inc. (the "Licensor") to permit the City to enter on a portion of the Licensor's property to perform ongoing maintenance, repairs and alterations to any municipal infrastructure that exists within the licensed area (hereinafter defined).
Property	A portion of the lands municipally known as 390-444 Dufferin Street, being part of PIN 21304-0195 (LT), as shown on the maps attached hereto as Appendix "B" and displayed as Parts 2, 10, 11, and 17 on the draft Reference Plan attached hereto as Appendix "C" (the "Licensed Area").
Actions	<ol style="list-style-type: none"> 1. Authority is granted to enter into the Agreement with the Licensor, substantially on the terms and conditions set out in Appendix "A", and any other or amended terms and conditions as determined by the Director of Real Estate Services, and in a form acceptable to the City Solicitor. 2. The Deputy City Manager, Internal Corporate Services or their designate shall administer and manage the Agreement including the provision of any consents, approvals, waivers, and notices provided that the Deputy City Manager, Internal Corporate Services may, at any time, refer consideration of such matters to City Council for its determination and direction. 3. The City Solicitor is authorized to complete the transaction on behalf of the City, including paying any necessary expenses, if any, and amending and waiving terms and conditions, on such terms as the City Solicitor considers reasonable. 4. The Director of Real Estate Services is authorized to give written consent pursuant to a Section 118 restriction set out in Appendix "A". 5. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.
Financial Impact	<p>There is no financial impact associated with the proposed Agreement. The City will acquire the licence for nominal consideration.</p> <p>The Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>The property owner of 390-444 Dufferin Street intends to construct a new mixed-use development on the property. The property owner and the City have entered into a Municipal Infrastructure Agreement dated June 4, 2018 (the "MIA") which sets out the obligations and liabilities of the property owner concerning the construction and maintenance of certain municipal infrastructure.</p> <p>As per the terms of the MIA, the property owner is required to construct a new watermain on a portion of its property to replace an existing municipal watermain located elsewhere on the property. Once the new watermain is operational, the existing watermain can be decommissioned, enabling the proposed development on the existing watermain lands. The lands that encompass the existing watermain are subject to an easement in favour of the City.</p> <p>Prior to the release of the existing municipal easement interest on the property, the property owner will be required to provide the City with uninterrupted access to the new watermain for future maintenance and repairs as required. The property owner will also be required to compensate the City an amount commensurate with the current market value of the easement interest.</p> <p>The proposed Agreement will provide the City with the necessary access to the new watermain in the interim until such time as the City acquires a more permanent interest on the lands that encompass the infrastructure.</p> <p>Real Estate Services staff deems the terms of the proposed Agreement to be fair and reasonable to both parties.</p>
Terms	Please see Appendix "A" on page #4.

Property Details	Ward:	18 – Davenport
	Assessment Roll No.:	19 04 024 010 036 01
	Approximate Size:	N/A
	Approximate Area:	744.4 m ²
	Other Information:	N/A

A.	Manager, Real Estate Services has approval authority for:	Director, Real Estate Services has approval authority for:
1. Acquisitions:	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
2. Expropriations:	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$50,000.	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 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 Divisions and Agencies:	Delegated to a more senior position.	Delegated to a more senior position.
6. Limiting Distance Agreements:	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
7. Disposals (including Leases of 21 years or more):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 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 \$50,000.	<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"/> (b) Where compensation is less than market value, for periods not exceeding six (6) months, including licences for environmental assessments and/or testing, etc.
	Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.	Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.
10. Leases/Licences (City as Tenant/Licensee):	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$50,000.	<input checked="" type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.
11. Easements (City as Grantor):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million.
	Delegated to a more senior position.	<input type="checkbox"/> (b) When closing roads, easements to pre-existing utilities for nominal consideration.
12. Easements (City as Grantee):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
13. Revisions to Council Decisions in Real Estate Matters:	Delegated to a more senior position.	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).
14. Miscellaneous:	Delegated to a more senior position.	<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/Caution
		<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. 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:	Ana Bailão				Councillor:				
Contact Name:	Robert Cerjanec – Chief of Staff				Contact Name:				
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail	<input type="checkbox"/>	Memo	<input type="checkbox"/>	Other	<input type="checkbox"/>	
Comments:	No concern (Sept/4/2018)				Comments:				
Consultation with Divisions and/or Agencies									
Division:	Engineering & Construction Services				Division:	Financial Planning			
Contact Name:	Jacqueline McGee				Contact Name:	Patricia Libardo			
Comments:	Requires licence to access new watermain				Comments:	No issues (Sept/5/2018)			
Legal Division Contact									
Contact Name:	Kellan Moulton (Sept/11/2018)								

DAF Tracking No.: 2018-313	Date	Signature
<input checked="" type="checkbox"/> Recommended by: Manager, Real Estate Services Tim Park	Sept. 12, 2018	Signed by Tim Park
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Director, Real Estate Services David Jollimore	Sept. 12, 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.
- (dd) Where the City is transacting with a public agency, and such agency requires that an unqualified environmental indemnity be granted by the City, the authority to acquire property includes authority to grant such an indemnity, provided that the Phase I and Phase II environmental site assessments undertaken on behalf of the City have identified no significant environmental impacts or human health threats, with no, or minor action required ("Low Risk").

Appendix "A" – Major Terms

Agreement Type

Licence

Licensor

390 Dufferin Residences LP, by its general partner, 390 Dufferin GP Inc.

Licensee

City of Toronto

Licensed Area

Parts 2, 10, 11 and 17 on the draft Reference Plan displayed in Appendix "C"

Purpose

To obtain access on a portion of the Licensor's property to perform ongoing maintenance, repairs and alterations to any municipal infrastructure that exists within the Licensed Area

Consideration

Nominal

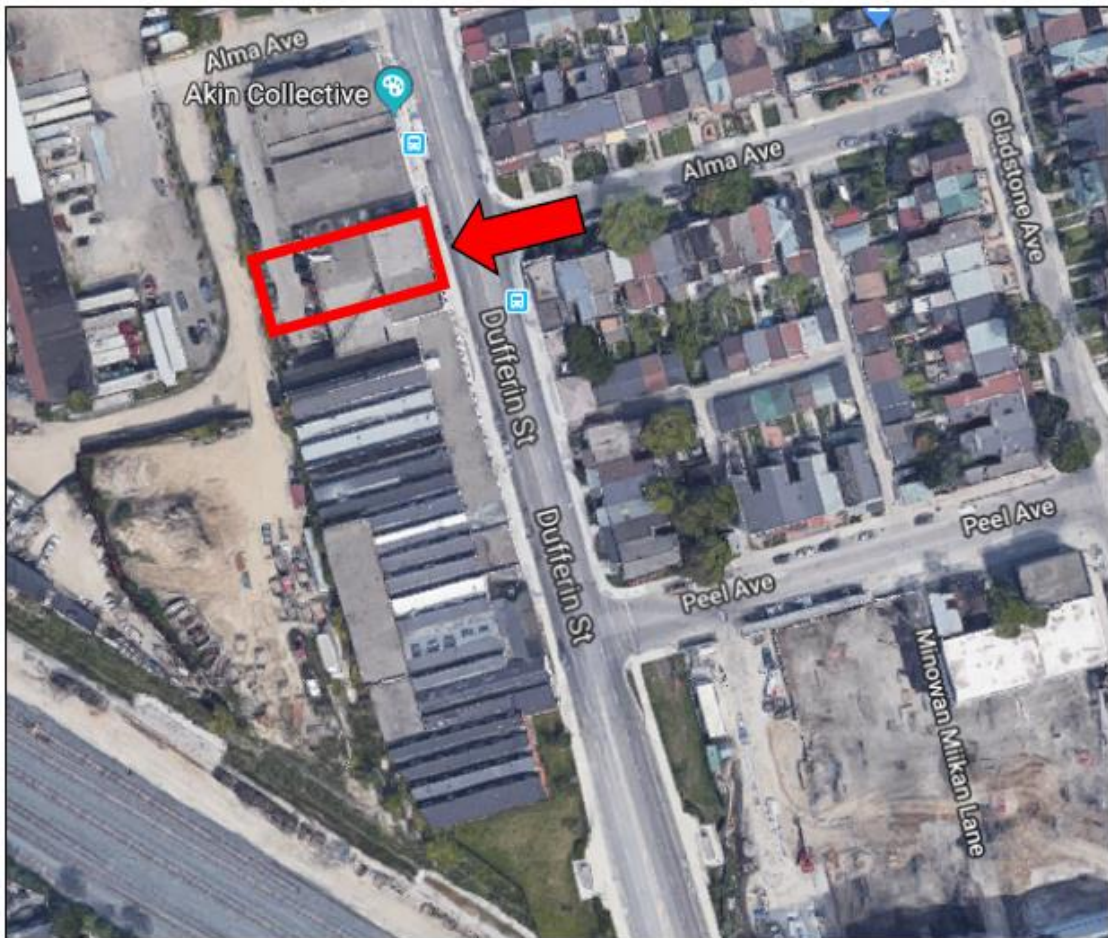
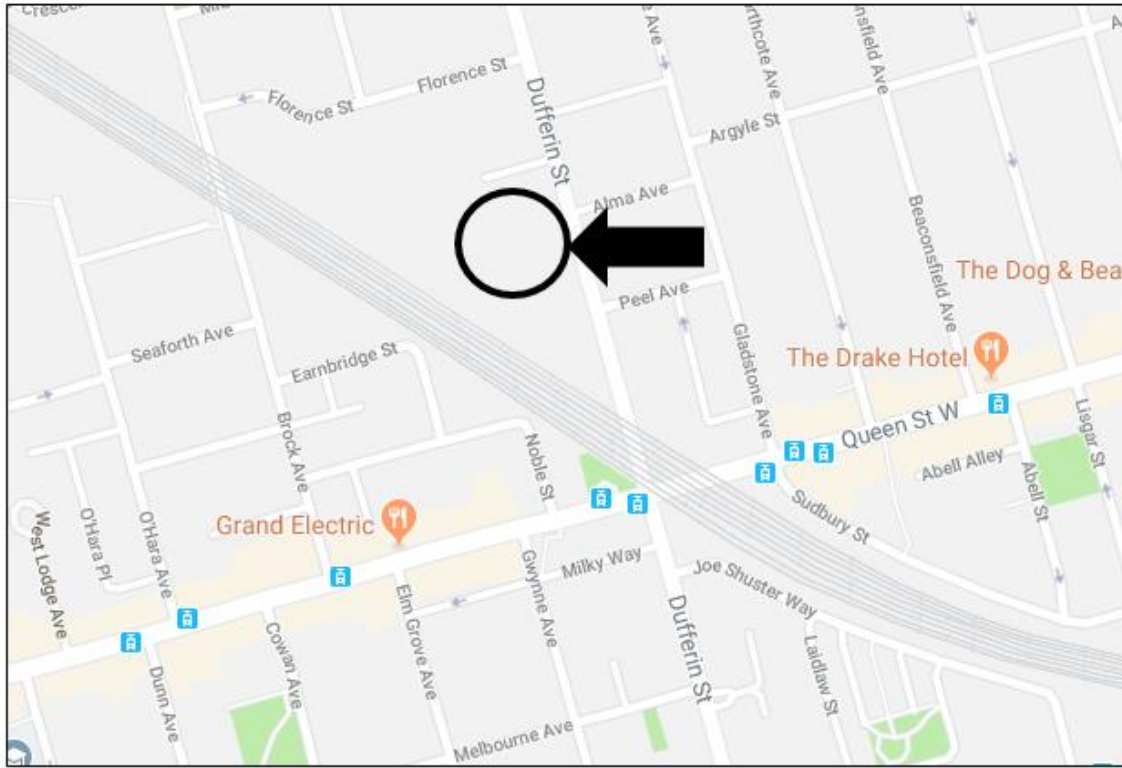
Licence Term

To commence on the date the Agreement is executed by both parties and shall continue in full force and effect until such time as the City acquires a permanent easement, or in the alternative a fee simple interest on the same lands

Section 118

A section 118 restriction will be registered on title prohibiting the transfer or charge of the Licensed Area without the consent of the City

Appendix "B" – Location Map



Appendix "C" – Draft Reference Plan

