

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

TRACKING NO.: 2018-341

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:	Patrick McCabe	Division:	Real Estate Services
Date Prepared:	October 16 2018	Phone No.:	416-338-7941

Purpose	To amend DAF #2018-218 dated June 5, 2018 authorizing a licence agreement with BAC Surface Inc. ("Brookfield") for the use of 1,648 square metres of land (the "Licensed Area") for construction staging, crane swing and storage purposes, within Cloud Garden Park (the "Park") located at 14 Temperance Street. This amendment is required due to a reconfiguration of the licensed area (from 1,323 square metres to 1,648 square metres), recalculation of the licence fee and amended date of commencement.
Property	14 Temperance Street, Toronto
Actions	<ol style="list-style-type: none"> Authority be granted to enter into a licence agreement with BAC Surface Inc. substantially on the terms and conditions set out on Page 4 hereof and any other or amended terms and conditions as may be deemed appropriate by the Deputy City Manager, Internal Corporate Services (the "DCM"), and in a form acceptable to the City Solicitor; The DCM or her designate shall administer and manage the licence agreement, including the provision of any consents, approvals, waivers, notices, and notices of termination, provided that the DCM may, at any time, refer consideration of such matters to City Council for its determination and direction; The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.
Financial Impact	<p>The City will receive \$71,070.00.00 per month plus HST in licence fees during the term of the agreement. Assuming the licence agreement runs the full 36 month term the City will receive a total amount of \$2,558,520.00 plus HST. Parks, Forestry & Recreation will be the recipient of the revenue to the City.</p> <p>The Interim Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	In order to facilitate the construction of the Bay-Adelaide Centre North project located at 40 Temperance Street, BAC Surface Inc. (the "Licensee") approached the City seeking temporary use of a 1,648 square metre portion of City owned land commonly known as Cloud Garden Park, situated at 14 Temperance Street. The Licensee has asked to utilize this portion of the Park for a period of 36 months for construction staging purposes which would include concrete truck access points along with crane placement and swing areas. A 289.9 square metre portion of the licensed area would be used to store existing park lighting and architectural elements, to be restored post-construction. The Park abuts the Bay-Adelaide Centre North project to the immediate east and as such can be safely incorporated into the main construction site by means of one contiguous construction hoarding system. The Licensee agrees to obtain all necessary demolition permits prior to the demolition of any design features or landscaping within the Licensed Area including those required for the removal of any trees. Prior to completion of the term the Licensee will enter into a separate agreement with the City of Toronto for reinstatement of the Licensed Area to its original condition or to the improved design standard set out in a separate Section 45(9) agreement the Licensee will be entering into as part of the overall Bay-Adelaide Centre North planning approval process. Parks planning has been included in the negotiation of this agreement to guide and provide insight with respect to making some necessary improvements to the Park when it is replaced at the end of the licence term or any extension thereof.
Terms	As detailed in Appendix "A".

Property Details	Ward:	28 – Toronto Centre-Rosedale
	Assessment Roll No.:	1904-06-3-160-00950
	Approximate Size:	
	Approximate Area:	1,648 m ² ± (17,739 ft ² ±)
	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/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 \$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/REOIs.</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:	Lucy Troisi				Councillor:										
Contact Name:	Herb Pirk				Contact Name:										
Contacted by:	Phone	X	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:					Comments:										
Consultation with Divisions and/or Agencies															
Division:	Parks, Forestry & Recreation				Division:	Financial Planning									
Contact Name:	Mark Emslie / Heidi Weidelich / Michelle Reid				Contact Name:	Patricia Libardo									
Comments:					Comments:										
Legal Division Contact															
Contact Name:	Lisa Strucken														

DAF Tracking No.: 2018- 218	Date	Signature
Recommended by: Manager, Real Estate Services	Oct. 17, 2018	Signed by Nick Simos
Recommended by: Director, Real Estate Services	Oct. 18, 2018	Signed by David Jollimore
<input type="checkbox"/> Recommended by: Deputy City Manager, Internal Corporate Services	Oct. 19, 2018	Signed by Josie Scioli
<input checked="" type="checkbox"/> Approved by: Josie Scioli		
<input type="checkbox"/> Approved by: City Manager,		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
Major Terms and Conditions

Licensor: City of Toronto

Licensee: BAC Surface Inc. (Brookfield) 181 Bay Street, Suite 330, Toronto, Ontario. M5J 2T3

Licensed Area: Western portion of Cloud Garden Park equal to 1,648 square metres.

Term: 36 months, commencing November 1, 2018

Licence Fee: \$71,070.00.00 per month plus HST

Option to Extend: For an additional 6 months with a monthly fee of \$72,482.00 plus HST

Early Termination: The Licensee may terminate upon giving 6 months written notice to City as Licensor.

Letter of Credit: Licensee agrees that it shall not commence any of the Licensee's Work unless and until the Licensee has delivered to the City an irrevocable unconditional letter of credit as required in a Section 45(9) Agreement to be executed by the Licensee, such letter of credit to be used to secure the reconstruction of the Licensed Area and the pedestrian walkway to a condition satisfactory to the General Manager. If no such Section 45(9) Agreement is executed, the Licensee shall provide a letter of credit in an amount equal to 120% of the estimated cost of reconstructing the Park.

Licensee's Work: During the course of the term the Licensee agrees to utilize the Licensed Area for the sole purpose of construction staging and crane erection. The Licensee agrees to obtain all necessary demolition permits prior to the demolition of any design features or landscaping within the Licensed Area including those required for the removal of any trees. In the event a Park redesign plan is not in place by the end of the term, or any extension thereof, the Licensee agrees to keep the Licensed Area safe and secure by retaining all hoarding in place in anticipation of the re-building of the Park.

Appendix "B"

Sketch of Licensed Area

