

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

**TRACKING NO.: 2018-376**

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:	November 30, 2018	Phone No.:	(416) 392-8151

<b>Purpose</b>	To obtain authority to enter into three (3) permanent easement agreements (collectively the "Easements") and a licence agreement (the "Licence") with Her Majesty the Queen in right of Ontario as represented by the Minister of Government and Consumer Services, as represented by Ontario Infrastructure and Lands Corporation (collectively "OILC") to enable the completion of the first stage of the City's Don River & Central Waterfront Wet Weather Flow System Project (the "Project"), also known as the Coxwell Bypass, which consists of constructing vertical shafts connected by a subsurface tunnel for the storage and conveyance of storm water and sanitary sewage.
<b>Property</b>	Please see Appendix "A" on page #4.
<b>Actions</b>	<ol style="list-style-type: none"> <li>Authority be granted for the City to acquire the Easements and Licence substantially on the terms and conditions set out in Appendix "A" together with such other terms and conditions as may be satisfactory to the Deputy City Manager, Corporate Services (the "DCM") and in a form acceptable to the City Solicitor.</li> <li>The Director of Real Estate Services shall administer and manage the Easements and Licence agreements, including the provision of any consents, approvals, waivers, notices and notice of termination provided that the DCM may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction.</li> <li>The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto, including but not limited to the execution of the Easements the Licence, and ancillary documentation.</li> </ol>
<b>Financial Impact</b>	<p>The City will incur the following costs associated with the Easements and Licence agreements:</p> <ol style="list-style-type: none"> <li>Total Easement Consideration = \$720,000.00</li> <li>Licence Consideration = \$124,770.00 (over the five year term)</li> <li>HST (13%) = \$109,820.10</li> <li>Land Transfer Taxes (Province) = \$7,700.00</li> <li>Legal Fee Reimbursement = Maximum of \$15,000.00 (or \$16,950.00 with full HST)</li> <li>Registration Costs = Maximum of \$600.00</li> <li>Other potential expenses = \$20,000.00</li> </ol> <p>The total costs associated with the Easements and Licence is approximately \$999,840.10. Funding for these costs is available in the 2018-2027 Council Approved Capital Budget and Plan for Toronto Water under account CWW480-01. The Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p>
<b>Comments</b>	<p>The Project is a multi-stage endeavor being completed by the Engineering &amp; Construction Services Division on behalf of the Toronto Water Division. In the first stage, it consists of the Coxwell Bypass, being a series of shafts connected by a 10.6 km tunnel bored at a depth of 50 meters below the surface (on average) to capture, store and convey combined sewer overflows.</p> <p>Once fully implemented, the Project will improve water quality, particularly in the Taylor Massey Creek, Lower Don River and Inner Harbour areas, as well as provide redundancy and security of operation for the Coxwell Sanitary Trunk Sewer.</p> <p>The Easements are required to construct, operate, maintain, repair, replace and protect the combined sewer tunnel and shaft along with a surface access road on OILC's lands.</p> <p>The Licence is required to use the area in furtherance of constructing the sewer tunnel and shaft including the rights to install hoarding, erosion and sediment control measures and build the access road.</p>
<b>Terms</b>	Please see Appendix "A" on page #4.

<b>Property Details</b>	<b>Ward:</b>	28 (Toronto Centre-Rosedale) & 29 (Toronto-Danforth)
	<b>Assessment Roll No.:</b>	Multiple
	<b>Approximate Size:</b>	Irregular
	<b>Approximate Area:</b>	
	<b>Other Information:</b>	N/A

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/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 &amp; Parks &amp; 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><b>Delegated to a more senior position.</b></p> <p><b>Delegated to a more senior position.</b></p> <p><b>Delegated to a more senior position.</b></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><b>Delegated to a more senior position.</b></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><b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b></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><b>Delegated to a more senior position.</b></p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p><b>Delegated to a more senior position.</b></p> <p><b>Delegated to a more senior position.</b></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/REOs.</p> <p><input type="checkbox"/> Initiate process &amp; authorize GM, Transportation Services to give notice of proposed by-law.</p> <p><b>Delegated to a more senior position.</b></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><b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b></p> <p><input checked="" type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.</p> <p><input 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 checked="" 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, Transaction Services 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, Corporate Services and any related documents.

Consultation with Councillor(s)							
Councillor:	Mary Fragedakis (Ward 29)			Councillor:	Lucy Troisi (Ward 28)		
Contact Name:	Daryl Finlayson – Executive Assistant			Contact Name:	Tom Davidson – Executive Assistant		
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail		Memo		Other
Comments:	No objections (Nov/27/2018)			Comments:	No objections (Nov/28/2018)		
Consultation with Divisions and/or Agencies							
Division:	Engineering & Construction Services			Division:	Financial Planning		
Contact Name:	Samantha Fraser/Robert Mayberry			Contact Name:	Maria Djergovic		
Comments:	Looks OK (Nov/27/2018)			Comments:	Proceed (Nov/30/2018)		
Legal Division Contact							
Contact Name:	Jennifer Davidson & Catherine Thomas (Nov/27/2018)						

DAF Tracking No.: 2018-376	Date	Signature
<input checked="" type="checkbox"/> Recommended by: Acting Manager, Real Estate Services Daran Somas	Nov. 30, 2018	Signed by Daran Somas
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Acting Director, Real Estate Services Tim Park	Nov. 30, 2018	Signed by Tim Park

#### 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, 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 50M<sup>2</sup> 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" – The Property & Major Terms

### The Property

#### **Easement Agreement #1**

*Firstly:* Water Lot in Front of Lot 15, Broken Front Concession, City of Toronto, being Parts 8 and 9 on Plan 66R-30109 [part of PIN 21077-0097 (LT)]

*Secondly:* Part of Lot 10, Concession 2, From the Bay, formerly Borough of East York, City of Toronto, being Parts 2 and 5 on Plan 66R-30130 [part of PIN 10372-0672(LT)]

#### **Easement Agreement #2**

Part of Lot 6, Concession 3, From the Bay, Part of Road Allowance between Concessions 2 and 3 From the Bay (Closed by Unregistered By-Law No. 312 York Township), being Part 9 on Plan 66R-30074, City of Toronto [part of PIN 10372-0069(LT)]

#### **Easement Agreement #3**

Part of Lot 10, Concession 2, From the Bay, being Parts 7,8,10,11, 13, 14 on Plan 66R-30131 [being part of PIN 10372-0672(LT)]

#### **Licence Agreement**

Part of Lot 10, Concession 2, From the Bay, as shown outlined in red in the sketch [being part of PIN 10372-0672(LT)]

### Major Terms

#### **Easement Agreements & Licence Agreement**

**Licence Agreement Term:** Five year term commencing December 1, 2018.

**Termination:** Transferor may terminate easement upon ten days notice for non-payment of any amount due under the agreement or, upon 9 months notice if the City's works interfere with HONI's transmission or distribution system.

**Removal or Relocation:** Transferor or HONI may, at the City's expense, remove or relocate anything deemed to be a nuisance, damage or interfere with HONI's transmission system or distribution system.

**Environmental Obligations and Indemnity:** City shall comply with all environmental laws and shall not bring or permit any environmental contaminants onto the easement lands or otherwise use them in a noxious or hazardous manner and shall, over and above the indemnity set out below, indemnify Transferor for any failure to do so.

**Indemnity:** City to indemnify and save harmless Transferor, HONI and all those to whom they are responsible in law from all loss or damage, including that arising from operating a tunnel in close proximity to transmission and distribution system but excluding any loss or damage caused by gross negligence.

**Insurance:** City to maintain liability insurance of no less than 5 Million Dollars naming the Transferor, OILC and HONI as additional insured. Policy must also contain cross liability clause and specify that it is primary coverage.

**Removal & Restoration:** City to remove Works and restore Easement Lands to condition satisfactory to Transferor and HONI within 6 months of termination or abandonment, unless otherwise notified.

# Appendix "B" – Location Map

