

**DELEGATED APPROVAL FORM
CITY MANAGER**

TRACKING NO.: 2018-396

DEPUTY CITY MANAGER, CORPORATE SERVICES

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:	Patricia Pearsall-Mills	Division:	Toronto Parking Authority
Date Prepared:	December 19, 2018	Phone No.:	416-393-7259

Purpose
The purpose of this document is to obtain authority for the City of Toronto ("City") to enter into a license agreement (the "Agreement") with Lanterra 234 Simcoe Realty Limited (the "Licensee", "Lanterra") to allow Lanterra to access the entire property at 121 St. Patrick Street (Carpark 221, refer to Appendix "B" – Site Location Map) for the purposes of site preparation and pre-development work including, without limitation, excavation to remove existing tiebacks and potential abandoned concrete structure and to build up a concrete platform for pavement of shorting equipment, removing existing lighting poles on utility services (the "Use").

Property
Property known municipally 121 St. Patrick Street, City of Toronto more particularly described as Lot 18, East side of Drummer Street, Plan 1-49-55 LT 18 Toronto; Part of Lot 19 East side of Drummer Street, 18 West side of William Street Plan 1-49-55, Toronto, being Parts 1 & 2, on Reference Plan 63R-3936; City of Toronto, being all of PIN 21207-0105 (LT) (the "City Lands").

- Actions**
1. Authority is granted to enter the Agreement with Lanterra 234 Simcoe Realty Limited on the terms and conditions set out below, and on other or amended terms and conditions satisfactory to the Deputy City Manager, Corporate Services.
 2. The Director of Real Estate Services or designate shall administer and manage the Agreement including the provision of any amendments, consents, approvals, waivers, notices, and notices of termination provided that the Director of Real Estate Services may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction.
 3. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact
The License will generate up to a maximum of approximately \$1,221,580.56 based on the longest term of 18 months and 8 days (December 28, 2018 to July 3, 2020). This amount includes (i) the monthly licence fee of \$39,000 from December 28, 2018 until May 31, 2019, and (ii) the monthly licence fee of \$78,000 if the term of the Agreement extends beyond June 1, 2019. The property taxes associated with the Property during the license term will be paid by the TPA. The monthly fee of \$39,000 is based on 2017 parking revenues identified by the Toronto Parking Authority ("TPA"). Any monies generated as part of the Agreement are to be transferred from the City to the TPA. The property taxes associated with the Property during the license term will be paid by the TPA and they are currently estimated at \$150,550.00 per annum.

The 2019 Recommended Operating Budget for the Toronto Parking Authority does not include any costs and revenues associated with this license agreement. The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.

Comments
The Municipal Carpark 221 has been operating as a 36-space surface parking lot on the City Lands since September 2003. The City Lands were not acquired through expropriation proceeding.

On July 3, 2018, the City and Lanterra entered into an Agreement of Purchase of Sale ("APS") related to the City Lands. The approved transaction involved the sale of a portion of the City Lands to Lanterra and in turn Lanterra is to construct on its own lands (and conveying same to the City) and on the retained portion of the City Lands an underground public parking garage (the "Public Parking Garage"). The Public Parking Garage will include a minimum of 75 spaces up to a maximum of 125 spaces, for which the City will pay a per-stall fee upon completion of the construction work. The Public Parking Garage shall be constructed in accordance with TPA standards and specifications, and operated by the TPA as a municipal parking facility. Lanterra will also construct a mixed-use residential condominium development consistent of retail and office space and a public parkland.

In fall 2018, Lanterra approached TPA and City Real Estate Services to discuss the possibility of accessing the City Lands in advance of the closing of the transaction contemplated in the APS to undertake necessary site preparation and pre-development work required, and to assist Lanterra to satisfy various pre-construction obligations.

Terms
Term: Commencing December 28, 2018 and terminating the earlier of (i) the closing of the transaction contemplated by the APS and (ii) July 3, 2020.

Termination: During the term of the Agreement, where (i) the Use is not undertaken for a period of thirty (30) days or (ii) the APS is terminated for whatever reason, the City shall have the right to terminate the Agreement upon giving written notice.
Licensee Fee: \$39,000 per month from December 28, 2018 to May 31, 2019; and
\$78,000 per month from June 1, 2019 to the termination
Plus applicable HST or other taxes (excluding realty taxes)

Insurance: The Licensee shall be required to obtain insurance in the amount of \$10 million per occurrence
Indemnity: The Licensee shall indemnify the City and save it harmless from all manner of claims relating from the use or the condition of the City Lands.

Property Details	Ward:	10 – Spadina-Fort York
	Assessment Roll No.:	1904-06-6-030-02700
	Approximate Size:	N/A
	Approximate Area:	1019 m ² ± (10,968 ft ² ±)
	Other Information:	

A.	Deputy City Manager, Corporate Services has approval authority for:	City Manager has approval authority for:
1. Acquisitions:	<input type="checkbox"/> Where total compensation does not exceed \$5 Million.	<input type="checkbox"/> Where total compensation does not exceed \$10 Million.
2. Expropriations:	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$5 Million.	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$10 Million.
3. Issuance of RFPs/REOIs:	<input type="checkbox"/> Issuance of RFPs/REOIs.	Delegated to a less senior position.
4. Permanent Highway Closures:	<input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.	Delegated to a less senior position.
5. Transfer of Operational Management to Divisions and Agencies:	<input type="checkbox"/> Transfer of Operational Management to Divisions and Agencies.	Delegated to a less senior position.
6. Limiting Distance Agreements:	<input type="checkbox"/> Where total compensation does not exceed \$5 Million.	<input type="checkbox"/> Where total compensation does not exceed \$10 Million.
7. Disposals (including Leases of 21 years or more):	<input type="checkbox"/> Where total compensation does not exceed \$5 Million.	<input type="checkbox"/> Where total compensation does not exceed \$10 Million.
8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan:	<input type="checkbox"/> Exchange of land in Green Space System and Parks and Open Space Areas of Official Plan.	Delegated to a less senior position.
9. Leases/Licences (City as Landlord/Licensor):	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$5 Million.	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$10 Million.
	<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.	Delegated to a less senior position.
	<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.	Delegated to a less senior position.
10. Leases/Licences (City as Tenant/Licensee):	<input checked="" type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$5 Million.	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$10 Million.
11. Easements (City as Grantor):	<input type="checkbox"/> (a) Where total compensation does not exceed \$5 Million.	<input type="checkbox"/> Where total compensation does not exceed \$10 Million.
	<input type="checkbox"/> (b) When closing roads, easements to pre-existing utilities for nominal consideration.	Delegated to a less senior position.
12. Easements (City as Grantee):	<input type="checkbox"/> Where total compensation does not exceed \$5 Million.	<input type="checkbox"/> Where total compensation does not exceed \$10 Million.
13. Revisions to Council Decisions in Real Estate Matters:	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).
14. Miscellaneous:	<input type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences	Delegated to a less senior position.
	<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. City Manager and Deputy Manager, Corporate 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.

Deputy City Manager, Corporate 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.

- Expropriation Applications and Notices following Council approval of expropriation.

Consultation with Councillor(s)															
Councillor:	Councillor Joe Cressy					Councillor:									
Contact Name:	Brent Gillard					Contact Name:									
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	No objections					Comments:									
Consultation with Divisions and/or Agencies															
Division:	Toronto Parking Authority					Division:	Financial Planning								
Contact Name:	Ian Maher					Contact Name:	Patricia Libardo								
Comments:	Proceed (Dec 20, 2018)					Comments:	Proceed (Dec 20, 2018)								
Legal Division Contact															
Contact Name:															

DAF Tracking No.: 2018-	Date	Signature
Recommended by: Nick Simos, Manager, Program & Policy Mgmt	December 20, 2018	Signed by Nick Simos
Recommended by: Tim Park, Acting Director, Real Estate Services	December 20, 2018	Signed by Tim Park
<input type="checkbox"/> Recommended by: Deputy City Manager, Corporate Services <input checked="" type="checkbox"/> Approved by: Josie Scioli	December 20, 2018	Signed by Josie Scioli
<input type="checkbox"/> Approved by: City Manager Chris Murray		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, 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"
LOCATION MAP AND AERIAL IMAGE

