

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

TRACKING NO.: 2019-008

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.

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| Prepared By: | Greg Blyskosz | Division: | Toronto Parking Authority |
| Date Prepared: | December 6, 2018 | Phone No.: | 416-393-7267 |

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| Purpose | To obtain approval for the Toronto Parking Authority ("TPA" or "Licensor") and City of Toronto ("City") (as a party to the agreement) to enter into a License Agreement ("License") with 2676417 Ontario Inc. o/a KA Car Care ("KA Car Care" or "Licensee") as indemnified by Enver Coovadia (the "Indemnifier") with respect to a License Agreement for a total of five (5) parking spaces situated on the P4 parking level of the below grade parking garage located at City-owned 9 Bedford Road, which is managed by TPA (the "Property" or "CP58") (refer to <i>Appendix 'A' – Site Location Map</i> and <i>Appendix 'B' – Licensed Premises Layout Plan</i>). The proposed term of the License Agreement is for a period of five (5) years, with an option to extend for an additional five (5) years. |
| Property | A total of five (5) parking spaces situated on the P4 parking level of below grade parking garage located at CP58 (refer to <i>Appendix 'B' - Licensed Premises Layout Plan</i>). |
| Actions | <ol style="list-style-type: none"> Authority to be granted for the Toronto Parking Authority (as licensor) and the City of Toronto (as a party to the agreement) to enter a License Agreement with 2676417 Ontario Inc. o/a KA Car Care (as licensee), and Enver Coovadia (as indemnifier) for a period of five (5) years, with an option to extend the term upon expiry for an additional five (5) years, upon the terms and conditions set out herein. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto. |
| Financial Impact | <p>In the event the Licensee exercises the 5 year option to extend (valued at approximately \$198,226.00), the License will generate a total of approximately \$377,765.00 in revenue to the TPA (excluding HST) for the entire ten (10) year term, based on the license fee of \$34,500.00 per annum (or \$2,875.00 per month) (the "License Fee") and increasing by 2.0% on each anniversary over the Term. All operating costs associated with the business (i.e. water, hydro, etc.) during the Term will be paid by the Licensee. The License Fee which averages approximately \$575.00 per space per month exceeds the \$260.00 monthly parking permit rate at the facility and is therefore considered fair and reasonable given this type of Business.</p> <p>By comparison, the License Fee negotiated at CP15 (located at 50 Cumberland St / 37 Yorkville Ave) in June 2002, was based on the greater of: (i) a minimum fee of \$14,400.00 per annum (or \$1,200 per month) (plus GST) ("Minimum Fee"), increasing by 3.0% on each anniversary date; and (ii) a percentage fee equal to 7.0% of gross revenue generated by the business. The Minimum Fee at the time was equal to \$200.00 per space per month which exceeded the \$140.00 monthly parking permit rate at the facility at the time.</p> <p>The Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p> |
| Comments | <p>The City, as owner of the Property, will be a party to the License. In accordance with City of Toronto By-law 1409-2017, the proposed transaction requires City approval, and shall be directed through the City Real Estate Approval Process.</p> <p>Site Location and Particulars</p> <p>City-owned Carpark 58, located at Bloor Street and Bedford Road (refer to <i>Appendix 'A' - Site Location Map</i>) is comprised of the following: (i) a 102-space surface parking facility; (ii) a four-level 287-space underground parking facility forming part of the InterContinental Hotel (the "Hotel"); and (iii) a service lane that is accessed from Prince Arthur Avenue. The City as landlord, entered into a 99 year less one day long term lease with the Hotel dated November 18, 1987, for lands upon which the Hotel has been constructed. The below grade parking garage has been sub-leased back to the TPA for municipal parking purposes. The surface parking area and below grade parking garage are both accessed exclusively from the west off Bedford Road.</p> <p>Background</p> <p>The Licensee, a sole proprietorship, has operated a car cleaning and hand-detailing service at Municipal Carpark 15 (50 Cumberland Street / 37 Yorkville Avenue) ("CP15"), occupying six (6) parking spaces in the basement level of the garage for the past 15 years, recently had to close their business as the site is undergoing redevelopment. As a result, the Licensee has requested the TPA to consider the relocation of their business to the below grade parking garage at the Property.</p> |
| Terms | Refer to <i>Appendix 'C' on Page 7</i> for a summary of the major terms and conditions of the License Agreement. |

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| Property Details | Ward: | Ward 11 – University – Rosedale |
| | Assessment Roll No.: | 1904-052-080-03400-0000 |
| | Approximate Size: | 13.0 m x 5.2 m ± (42.8 ft x 17.7 ft ±) |
| | Approximate Area: | 71.5 m ² ± (769.6 ft ² ±) |
| | Other Information: | New License Agreement |

| A. | Manager, Real Estate Services has approval authority for: | Director, Real Estate Services has approval authority for: |
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| 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: 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 \$50,000. | <input checked="" 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 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 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: | Mike Layton | | | | | Councillor: | | | | | | | | | |
| Contact Name: | Stephanie Nakitsas / Marco Bianchi | | | | | Contact Name: | | | | | | | | | |
| Contacted by: | Phone | <input checked="" type="checkbox"/> | E-Mail | | Memo | | Other | Contacted by: | Phone | | E-mail | | Memo | | Other |
| Comments: | No Objection (Dec 10, 2018) | | | | | Comments: | | | | | | | | | |
| Consultation with Divisions and/or Agencies | | | | | | | | | | | | | | | |
| Division: | | | | | | Division: | Financial Planning / Internal Risk Management | | | | | | | | |
| Contact Name: | | | | | | Contact Name: | Lauren Birch | | | | | | | | |
| Comments: | | | | | | Comments: | Proceed (Dec. 6, 2018) | | | | | | | | |
| Legal Division Contact | | | | | | | | | | | | | | | |
| Contact Name: | Soo Kim Lee 416-392-1246 | | | | | | | | | | | | | | |

| DAF Tracking No.: 2019-008 | Date | Signature |
|---|---------------|-----------------------|
| Recommended by: Daran Somas, Acting Manager | | |
| <input checked="" type="checkbox"/> Recommended by: Acting Manager, Real Estate Services Daran Somas | Jan. 8, 2019 | Signed by Daran Somas |
| <input type="checkbox"/> Approved by: | | |
| <input checked="" type="checkbox"/> Approved by: Acting Director, Real Estate Services Tim Park | Jan. 31, 2019 | 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, 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.

Comments – continued from Page 1**Operational Implications**

The proposed License will have no impact to the operation of TPA's surface parking facility and minimal disruption to the underground parking garage. The Licensee will occupy a total of five (5) parking spaces on the lowest or P4 level of the garage. All cars are washed by hand without the use of any significant machinery and all soaps and detergents used in the operation are certified bio-friendly.

Decision History

At its meeting of March 26, 2002 (*TPA Board Minute No.: 02-053*), the TPA Board authorized staff to enter into a License Agreement with 1036852 Ontario Inc. (o/a J.W. Car Care) dated June 30, 2002 in order to operate a car cleaning and hand-detailing service within CP15 for a term of 5-years beginning September 11, 2002 and ending September 10, 2007.

By a License Extension Agreement dated September 11, 2007, the initial term of the License Agreement was extended from September 11, 2007 until September 10, 2012.

By an Assignment Agreement dated January 1, 2009, the License Agreement was assigned to the current operator 1413652 Ontario Inc. o/a KA Car Care with Enver Coovadia as Indemnifier.

By a License Extension Agreement dated September 11, 2012, the License was extended for a further term of 5 years beginning September 11, 2012 and ending September 10, 2017.

The License had since lapsed and the Licensee continued to operate on a month to month basis until the closure of CP15 (50 Cumberland Street / 37 Yorkville Avenue) on November 19, 2018 on account of the pending redevelopment of the site.

Summary

In summary, TPA staff recommend approval of the proposed new License Agreement for the following reasons:

- The operator has been a model licensee and has a proven track record of having operated the Business at CP15 over the past 15 years;
- The License arrangement will generate an additional \$34,500.00 (plus HST) annually over the Term of the arrangement;
- The License Fee exceeds the monthly parking permit rate at the facility and is therefore considered fair and reasonable given this type of Business;
- The Business will provide a positive 'value add' service to both TPA patrons and Hotel guests, and may attract additional customers to the parking facility; and
- Customers of the Business will still be required to pay the posted parking fees at the carpark.

TPA staff believe that having a prestige car care service such as KA Car Care will enhance the safety, prestige, service level, income and convenience of the parking facility.

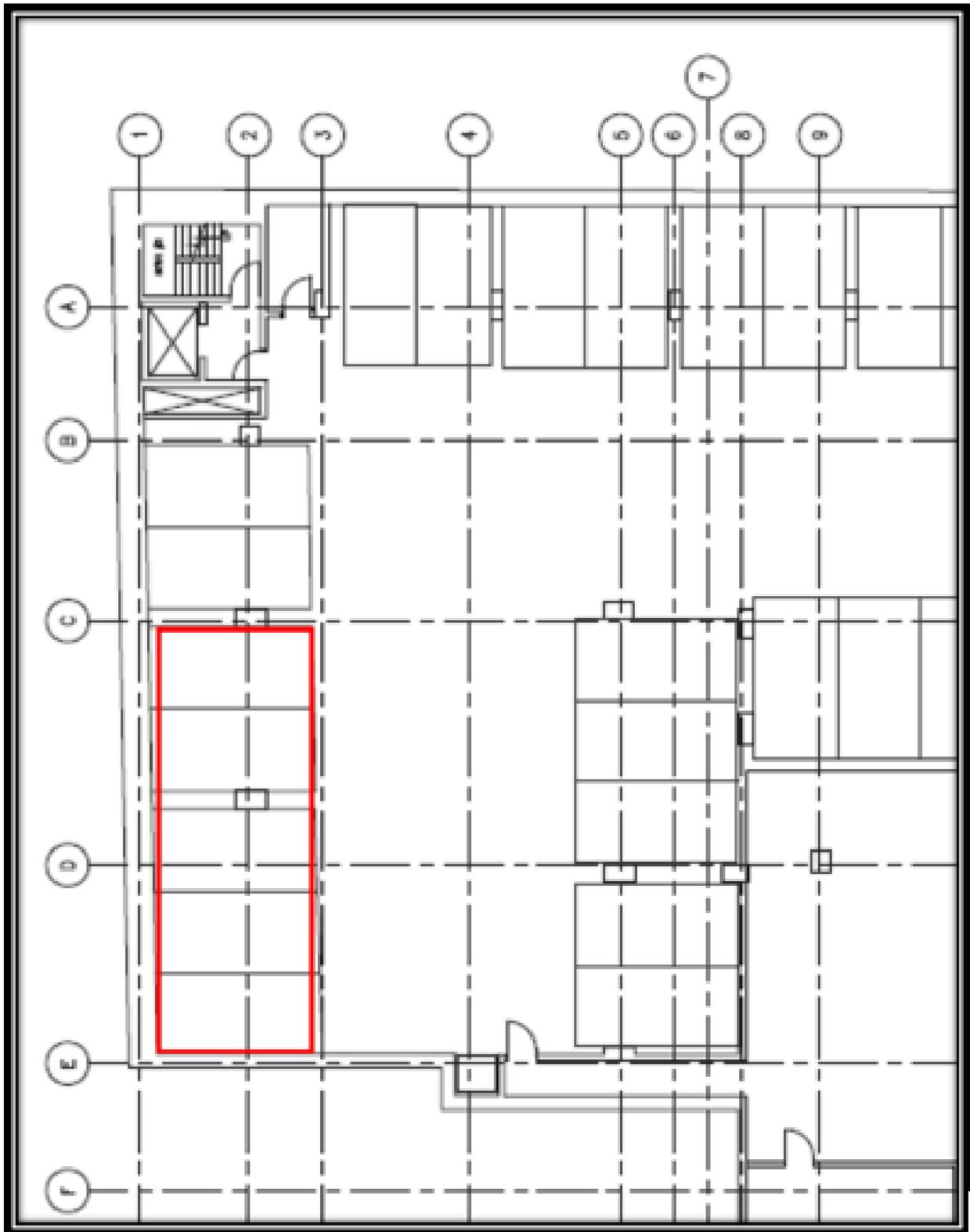
Attachments

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| Appendix 'A' | Site Location Map |
| Appendix 'B' | Licensed Premises Layout Plan |
| Appendix 'C' | License Agreement |

APPENDIX 'A' SITE LOCATION MAP



APPENDIX 'B' LICENSED PREMISES LAYOUT PLAN



APPENDIX 'C' LICENSE AGREEMENT

Summarized below are the major terms and conditions of the proposed License Agreement between TPA, 1413652 Ontario Inc. o/a KA Car Care and the City as a party to the License:

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| Licensee: | 2676417 Ontario Inc. o/a KA Car Care |
| Licensor: | Toronto Parking Authority |
| Indemnifier: | Mr. Enver Coovadia |
| Licensed Premises: | A total of five (5) parking spaces situated on the P4 parking level of the below grade parking garage located at CP58 (refer to <i>Appendix 'B' - Licensed Premises Layout Plan</i>). |
| Business: | The Licensee intends to operate a car cleaning and hand-detailing service. |
| Term: | 5 year term beginning January 1, 2019, or such later date as mutually agreed upon, after City authority is secured. |
| License Fee: | \$34,500.00 per annum (or \$2,875.00 per month) and increasing by 2.0% on each anniversary over the Term. |
| Fixturing Period: | Ninety (90) days during which time the Licensee will not be responsible for the License Fee but will be responsible for any Additional Rent. |
| Improvements: | The cost to fit-out the Business is estimated at approximately \$16,000.00 and will be paid by the Licensee. |
| Option to Extend: | Provided that the Licensee is in good standing throughout the Term, one additional term of five (5) years (the "Extended Term"), to be exercised by notice to TPA at least six (6) months before the expiry of the Term, provided that the License Fee shall be fair market value, and not less than the License Fee payable during the 12 month period immediately preceding the date of commencement of the Extended Term. |
| Additional Rent: | The Licensee will be responsible for all costs associated with operating the Business, including but not limited to heat, hydro, ventilation, air conditioning, water, telephone, cable, gas, and other utilities and services (if applicable). |
| Relocation Option: | Subject to space availability, the Licensor may accommodate the Licensee in relocating the Business to an alternative TPA carpark if it is determined that the current location proves un-suitable or not sustainable from a business operations standpoint; to be agreed upon between both parties. |
| Security Deposit: | \$5,750.00 to be held during the Term to ensure performance of the Licensee under the terms of the agreement. |
| Termination: | The Licensor and the Licensee shall have mutual rights of termination upon ninety (90) days prior written notice. |
| Insurance: | The Licensee covenants and agrees to maintain during the Term: <ul style="list-style-type: none"> • Valid business interruption insurance; • General Liability Insurance with a limit of not less than five million dollars (\$5,000,000.00) per occurrence; and • Automobile Liability Insurance with a limit of not less than five million dollars (\$5,000,000.00) per occurrence. |
| City Approval: | In accordance with City of Toronto By-law 1409-2017, the proposed transaction requires City approval, and shall be directed through the City Real Estate Approval Process. |
| Indemnity: | The Tenant covenants to indemnify and save harmless the Licensor and the City of Toronto, including its officers, agents and employees, from and against any and all manner of claims, damages, loss, costs and charges occasioned to, suffered by or imposed upon the Licensor and / or the City of Toronto, either directly or indirectly, in consequence of or in connection with or arising from the Licensee's occupation of the Property. |
| Other: | <ul style="list-style-type: none"> • The Tenant will maintain a valid MLS business license during operation. • The Tenant will maintain and use a dedicated sand and grit interceptor for any wastewater discharge • The Tenant will not discharge to the storm sewer • The Tenant agrees to follow the Best Management Practices (BMP) for Automotive Facilities and agrees to submit a BMP for Automotive Facilities Declaration form within one year of operation |