

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

TRACKING NO.: 2019-138

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:	Rutvik Pandya	Division:	Real Estate Services
Date Prepared:	April 11, 2019	Phone No.:	416-338-5812

Purpose	To obtain authority to enter into an agreement (the "Agreement") with Malvern Family Resource Centre (the "Operator") to permit the Operator to use approximately 71,264.16 square feet (1.636 acres) of land within the Finch Hydro Corridor (the "Garden Area") as an urban agricultural community garden under the Community Engagement and Entrepreneurial Development Gardens Pilot Project ("CEED"), and a letter agreement with Hydro One Networks Inc. ("HONI") setting out terms and conditions regarding construction of the CEED garden (the "HONI Construction Approval Letter"). The Garden Area is part of a larger area, shown as the "Licensed Area" on Schedule "B-62" attached (the "Hydro Lands"), proposed to be licensed to the City by Her Majesty the Queen in Right of Ontario as represented by The Minister of Economic Development, Employment and Infrastructure, as represented by Ontario Infrastructure and Lands Corporation (the "Licensor"), by amendment to a licence agreement executed October 26, 2010, as renewed by agreement made January 17, 2017 (the "Master Licence Agreement").
Property	The Garden Area and the pedestrian pathway, shown shaded in black on the Garden Area sketch at Appendix "A", is part of PIN 060532433 (LT) (Part of Lot 14, Concession 4, City of Toronto), being part of the hydro corridor in the vicinity of Morningside Ave and McNicoll Ave, City of Toronto.
Actions	<ol style="list-style-type: none"> 1. Authority be granted to enter into the Agreement with the Operator to use the Garden Area, and the HONI Construction Approval Letter with HONI, on the terms and conditions outlined in the schedule of key terms on Page 6, and any such other or amended terms and conditions deemed appropriate by the Deputy City Manager, Corporate Services ("DCM"), and in a form acceptable to the City Solicitor; 2. The DCM or her designate administer and manage the 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; and 3. 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 to the City. The Operator shall pay to the City in advance on commencement of the term of the Agreement (the "Garden Term"), and each anniversary thereof throughout the Garden Term, an amount to fully reimburse the City for the taxes, rates or grants in lieu thereof that the City is required to pay in connection with the Garden Area as part of the Fee under the terms of the Master Licence Agreement. The amount due on commencement of the Garden Term is Seventeen Hundred Dollars (\$1700.00).</p> <p>The Chief Financial Officer & Treasurer has reviewed this DAF and agrees with the financial impact information</p>
Comments	<p>The City's Parks, Forestry and Recreation Division was approached by the City's Social Development, Finance and Administration Division ("SDFA") regarding the implementation of CEED, a program that initially included four urban agricultural gardens on Hydro One corridors. Subsequently, the project has been revised down to two urban agricultural gardens. The Agreement will permit the Operator to install, operate and maintain a community garden on the Garden Area, in accordance with the terms of the CEED program, as determined by SDFA (the "CEED Garden Operating Terms"), and subject to the necessary consents and approvals under the Master Licence Agreement being finalized. The HONI Construction Approval Letter sets out terms and conditions of HONI's approval of construction of the CEED garden, which the City is required to accept prior to construction. SDFA and the Operators have reviewed and are in agreement of the obligations set out in the Agreement and the Terms & Condition Letter set out by HONI.</p> <p>The CEED program will be supported through various infrastructure and program grants that will fund the implementation and operation of the gardens. The Operator shall be responsible for the obligations of the City related to the Garden Area set out in the Master Licence Agreement and the HONI Construction Approval Letter including costs associated with the use of the Garden Area, including all taxes, rates or grants in lieu of taxes paid by the City to the Licensor, in each year of the Garden Term.</p> <p>At its meeting held on August 25, 26 and 27, 2010, City Council, pursuant to GM33.6, authorized the Master Licence Agreement, which permits certain parcels of hydro corridor land to be used by the City for recreational purposes, subject to certain conditions set out therein. Under delegated authority, the Master Licence Agreement has been amended a number of times to add additional lands, and renewed since its initial execution</p> <p>The proposed terms are fair and reasonable, the proposed fee is reflective of market rates, and Parks, Forestry and Recreation and Real Estate Services staff support this proposal.</p>

Terms	See Page. 6	
Property Details	Ward:	Ward 23 – Scarborough North
	Assessment Roll No.:	Part of 1901-12-7-950-08300
	Approximate Size:	
	Approximate Area:	1.636 ac (6,620.657 m ² ±)
	Other Information:	

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/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: N/A</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>Delegated to a more senior position.</p> <p>Delegated to a more senior position.</p> <p>Delegated to a more senior position.</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>Delegated to a more senior position.</p> <p><input checked="" 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>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</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>Delegated to a more senior position.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to a more senior position.</p> <p>Delegated to a more senior position.</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/REOIs.</p> <p><input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.</p> <p>Delegated to a more senior position.</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>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</p> <p><input 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 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, 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, Corporal Services and any related documents.

Consultation with Councillor(s)									
Councillor:	Cynthia Lai				Councillor:				
Contact Name:					Contact Name:				
Contacted by:	Phone	E-Mail	Memo	Other	Contacted by:	Phone	E-mail	Memo	Other
Comments:	Not Consulted				Comments:				
Consultation with Divisions and/or Agencies									
Division:	Parks, Forestry and Recreation				Division:	Financial Planning			
Contact Name:	Brian Majcencic				Contact Name:	Lauren Birch			
Comments:	Comments incorporated				Comments:	Concurred May 14,2019			
Legal Division Contact									
Contact Name:	Charlene Farrugia								

DAF Tracking No.: 2019-138	Date	Signature
Concurred with by: Manager, Real Estate Services Daran Somas	May 17, 2019	Signed by Daran Somas
<input type="checkbox"/> Recommended by: Manager, Real Estate Services Alex Schuler	May 17, 2019	Signed by Alex Schuler
<input checked="" type="checkbox"/> Approved by:		
<input type="checkbox"/> Approved by: Acting Director, Real Estate Services Nick Simos		

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.

Schedule of Key Terms – Sub License

Parties: City of Toronto and Malvern Family Resource Centre (MFRC).

Conditions - The Agreement is conditional on:

- (a) amendment of the Master Licence Agreement to include the Hydro Lands;
- (b) execution of the HONI Construction Approval Letter by the City; and
- (c) consent being granted for the City to sublicense the Garden Area to the Operator, as required by the Master Licence Agreement

Commencement Date - The later of the date of the Agreement and the date that the last of the Conditions is fulfilled

Expiry Date: December 31, 2020, subject to earlier termination of the Master Licence Agreement.

Insurance: General liability insurance in the amount of \$5 million.

Use: To install, operate and maintain on the Garden Area, at no cost to the City, an urban agricultural garden and associated pedestrian pathway, in accordance with the terms of the Master Licence Agreement and the consents and approvals granted thereunder, and the CEED Garden Operating Terms. The Operator shall also have the right to establish and use an unpaved vehicular access path to the west of the Garden Area, shown as a dotted line on the Garden Area sketch at Appendix "A", for the duration of construction of the CEED garden.

Fees: The Operator shall remit all taxes, rates or grants in lieu of taxes payable in respect of the Garden Area by the City under the Master Licence Agreement in each year of the Garden Term. For 2019, this amount is \$1700 per annum.

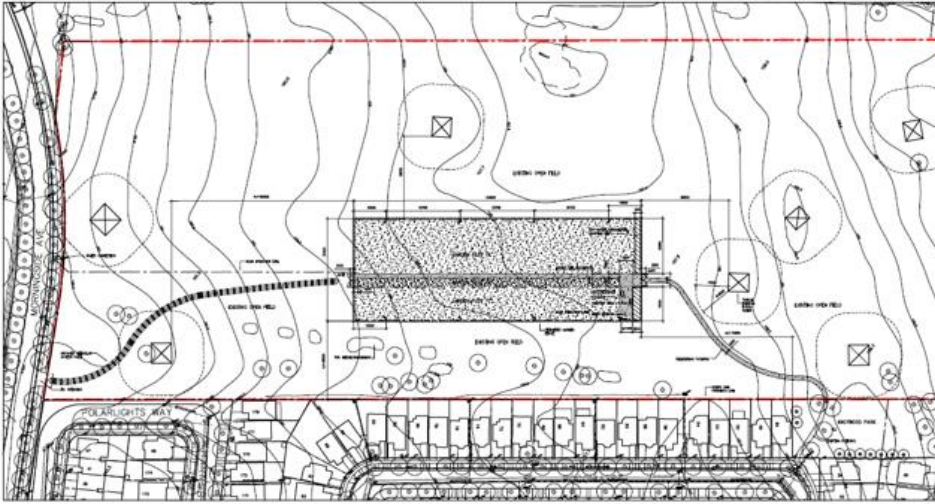
Indemnity: The Operator shall at all times indemnify and save harmless the City and the Licensor from any and all manner of claims, demands, losses, costs, charges, actions and other proceedings which arise from the use and occupation of the Garden Area.

Schedule of Key Terms – HONI Construction Approval Letter

1. HONI's access is not to be impeded in any way through the corridor. Hydro One crews require 24/7 linear access.
2. The unpaved vehicular pathway is to be used for site development purposes (one time use) only.
3. The City must obtain written permission from Enbridge Gas for the proposed use prior to construction, and provide a copy to HONI/the Licensor. The City is responsible for all other utility permits and permissions which may be required for the proposed use.
4. HONI will not be responsible for damage to the garden plots when HONI needs to access licensed lands for maintenance and or emergency work.
5. No plantings are permitted without prior permission other than grass or approved species per HONI Approved Species Policy. All proposed plantings must be field-reviewed and approved by the Lines Technician. There are to be no plantings within 15m radius of the towers.
6. The installation of signs warning of overhead high voltage power lines are required as per the Occupational Health and Safety Act.
7. A pre-construction meeting with the HONI Land Use Agent/ Environmental Technician assigned to the project, is required.
8. The City is responsible for maintaining security of the site and for the safety of the people working within the corridor.
9. The City will assume all liability associated with this secondary land use proposal.
10. There shall be no storage or tipping of garbage dumpsters on the hydro corridor lands. Any debris shall be removed on an ongoing basis.

Appendix "A"

Garden Area



Context Map






SCHEDULE "B-62"

Finch Hydro Corridor: Morningside Heights CEED Garden Plots

**Part of Lot 14, Concession 4
Former City of Scarborough, now City of Toronto
HONI File: Scarborough C 632.1-6117**



-  Bill 58 Corridor Lands
-  Licensed Area (11.17 acres)
-  Taxable Area (1.636 acres)

