

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

TRACKING NO.: 2019-174

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:	Leila Valenzuela	Division:	Real Estate Services
Date Prepared:	June 25, 2019	Phone No.:	416-392-7174
Purpose	To obtain authority to enter into a temporary licence (the "Licence") in favour of Metrolinx over portion of the TTC-owned property municipally known as 640 Lansdowne Avenue for construction staging and laydown area to facilitate the construction of the GO Expansion Program.		
Property	Westerly portion of 640 Lansdowne Avenue, shown as Part 3 on Draft Plan of Survey by Rouse Surveyors dated August 9, 2018 (the "Licensed Premises"), as shown on Appendix 'B'.		
Actions	<ol style="list-style-type: none"> Authority be granted to enter into a Licence with Metrolinx for the Licensed Premises, substantially on the terms set out herein, and such other terms as are acceptable to the Deputy City Manager of Corporate Services ("DCM") and in a form acceptable to the City Solicitor; The DCM administer and manage the Licence, including the provision of any amendments, consents, approvals, waivers, notices and notices of termination provided that the DCM may, at any time, refer consideration of such matter to City Council for its determination and direction; and The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto. 		
Financial Impact	<p>The total licence fees for the full term amounts to \$2,706,795.00 (exclusive of HST). Assuming the Licence is extended up to maximum of 2 years, the total additional licence fees is \$1,257,698.00 (exclusive of HST). Metrolinx will also be responsible for additional costs: (1) payable to CreateTO: \$24,340 + HST for cost to retrofit monitoring wells within the Licensed Premises; and (2) payable to TTC: \$398,000 +HST for TTC relocation costs.</p> <p>By its adoption of MM8.52, City Council at its meeting on June 18 and 19, 2019, directed that any rental revenues with respect to this site, shall be directed to the City's Affordable Housing Office and Parks, Forestry and Recreation Division.</p> <p>The City will reimburse the TTC (to be offset from the licence fees) for the site preparation cost to set up the Obico Yard to facilitate the TTC move.</p> <p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.</p>		
Comments	<p>640 Lansdowne Avenue (the "Property") was an active streetcar and trolley bus facility until 1996. It was declared surplus in 1997 and in 2004 the former garage building was demolished due to its deteriorated and structurally unsafe condition. Since the early 2000s, it was being used mainly for TTC and third party outdoor storage. Recently, TTC was using the Property for outdoor storage of streetcar track panel assemblies and associated equipment.</p> <p>On February 27, 2019, the TTC Board approved the proposed Licence, with the licence fees payable to the TTC. As a result, the TTC streetcar storage facility at the Property will be relocated potentially to Obico Yard, City-owned (TTC) property. TTC's moving costs will be paid by Metrolinx, however the new site preparation costs incurred by the TTC for the relocation will be offset from the licence fee to be collected from Metrolinx. The remainder of the Property has been allocated for future affordable housing and parkland development.</p> <p>Title to the Property is held in the name of the TTC. Pursuant to City of Toronto Municipal Code Chapter 279 (TTC), Sec. 2.4.E, the property interests registered in the name of the TTC are held by the TTC in its capacity as an agent of the City. In addition, Chapter 279-2.4.F provides that the TTC shall assist in the implementation of transactions proposed by the DCM with respect to property under the jurisdiction of, or registered in the name of, the TTC, as requested by the DCM.</p> <p>By its adoption of MM8.52, City Council, at its meeting on June 18 and 19, 2019, directed that "any lease or rental revenues with respect to the site at 640 Lansdowne Avenue, be directed to the City's Affordable Housing Office and Parks, Forestry and Recreation Division for the exclusive use of supporting the creation, development and maintenance of affordable housing uses on this site and to fund costs associated with the creation and construction of a local park."</p> <p>TTC noted that the Council direction with respect to the Licence fees to be payable to the City is inconsistent with the TTC Board approval. The TTC, CreateTO and Real Estate Services staff consider the major terms and conditions of the Licence contained on page 4 to be fair, reasonable, and reflective of market value.</p>		
Terms	See Appendix 'A' on page 4.		
Property Details	Ward:	9 - Davenport	
	Assessment Roll No.:	Part of 19040312302400	
	Approximate Area:	2.06 ac (8,354 m ²) (89,921.7 ft ²)	

A.	Deputy City Manager, 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"/> (a) Where total compensation does not exceed \$5 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 \$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>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>Delegated to a less senior position.</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>

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 Ana Bailao				Councillor:				
Contact Name:	Michael Vieira				Contact Name:				
Contacted by:	X	Phone	X	E-Mail		Memo		Other	
Comments:	Motion adopted by Council (MM8.52) (06/18/2019)				Comments:				
Consultation with Divisions and/or Agencies									
Division:	TTC / CreateTO				Division:	Financial Planning			
Contact Name:	Michael Stevenson/Melita Varga				Contact Name:	Laurie Birch			
Comments:	CreateTO has no concerns (06/14/2019); TTC objects with the Financial Impact re. Licence fee not being payable to TTC (06/25/2019)				Comments:	Comments have been incorporated (06/25/2019)			
Legal Division Contact									
Contact Name:	Lisa Davies (06/25/2019)								

DAF Tracking No.: 2019-174	Date	Signature
Recommended by: Acting Manager, Real Estate Services	June 26, 2019	Signed by Melanie Hale-Carter
Recommended by: Acting Director, Real Estate Services	June 26, 2019	Signed by Nick Simos
<input type="checkbox"/> Recommended by: Deputy City Manager, Corporate Services	June 26, 2019	Signed by Josie Scioli
<input checked="" type="checkbox"/> Approved 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'

Major Terms and Conditions

Licensed Premises:	Westerly portion of 640 Lansdowne Avenue, shown as Part 3 on Draft Plan of Survey by Rouse Surveyors dated August 9, 2018
Property Owner:	Toronto Transit Commission
Licensor:	City of Toronto
Licensee:	Metrolinx
Term:	4 years & six months, commencing July 1, 2019 and ending on December 31, 2023
Extension Option:	4 further periods of up to six (6) months each upon written notice to the Licensor within 60 days prior to the expiry of the Term
License Fee:	Payable prior to July 1, 2019: \$300,755.00 Payable January 1, 2020: \$601,510.00 plus HST Payable January 1, 2021: \$601,510.00 plus HST Payable January 1, 2022: \$601,510.00 plus HST Payable January 1, 2023: \$601,510.00 plus HST
Licence Fee During Extensions	First six month extension: \$309,778.00 plus HST Second six month extension: \$309,778.00 plus HST Third six month extension: \$319,071.00 plus HST Fourth six month extension: \$319,071.00 plus HST
Licensed Area:	2.06 ac (8,354 m ²) (89,921.7 ft ²)
Use:	As a construction staging and laydown area to facilitate the construction of the GO Expansion (the "Works"), including the operation, parking and storage of passenger and construction vehicles, equipment, machinery, building materials, compressors, excavators, caisson drilling equipment, assembly and fabrication of components of the Works, and the construction of site trailer(s) together with the right of ingress and egress in, on, over, through and across that part of the Licensed Premises, to the Licensee and Licensee's Representatives.
Insurance:	The Licensee shall obtain and maintain: - Commercial General Liability - not less \$10,000,000.00 per occurrence - City & TTC should be added as additional insured
Indemnification:	The Licensee covenants to indemnify and save harmless the City & TTC from any and all manner of claims in respect of any losses, damage, and injury (including property damage, personal injury, bodily injury and death), either directly or indirectly arising from the Licensee's occupation of the Licensed Premises.
Early Termination Rights:	Each party may terminate upon giving 30 days written notice to the other party
Restoration:	The Licensee shall, at its sole cost and expense restore the Licensed Premises to the same condition as existed prior to commencement of the License, including returning the Licensed Premises to the same environmental condition existing prior to commencement of the Licence.
Other:	(1) The Licensee to pay prior to commencement of the Term: - To TTC in the amount of \$398,000.00 plus HST to reimburse TTCs relocation costs. Upon completion of the relocation, TTC shall submit an itemized costs of the actual costs. TTC shall refund to Metrolinx any unused portion of \$398,000. In no event shall the TTC relocation costs exceed \$398,000; and - To CreateTO \$24,340.00 plus HST to reimburse CreateTO's costs to retrofit the existing environmental wells located on the Licensed Premises. (2) The Licensee acknowledges that the Licence do not preclude the City and its agents from having access to the Licensed Premises at all times including for the purposes of environmental investigation, testing, maintaining, replacing, repairing the Wells and Probes and installing additional wells and probes (as required) and/or for other remediation purposes as the City and/or its agents may deem necessary or appropriate or as required by Provincial regulations.

Appendix 'B'

