

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

TRACKING NO.: 2019-171

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:	Kathie Capizzano	Division:	Real Estate Services
Date Prepared:	July 8, 2019	Phone No.:	2-4825

Purpose	To enter into a Licence agreement with Toronto Port Authority (referred to below as "Ports Toronto" for the water lot adjacent to the dockwall in order to reconstruct the dockwall, at the bottom of Eireann Quay, west of the Airport terminal, east of Portland Slip.
Property	<p>A portion of the water lot, adjacent to the Western Dockwall, at the bottom of Eireann Quay, west of the Airport Terminal, east of Portland Slip and described as:</p> <p>Filled Lands: The lands described having a measurement of 124.46 metres x 1.15 metres from the face of the dockwall and having an area of approximately 143.13 square metres and as identified as Filled "Area of Permanent Infill" Lands on the drawing attached as Schedule "A".</p> <p>Adjacent Area: That area measuring 125 metres x 10 metres, from the face of the dockwall, having an area of approximately 1,250 square metres and identified as "Area of temporary In-Water Works" on the drawing attached as Schedule "A" Collectively referred as the "Licensed Area"</p>
Actions	<ol style="list-style-type: none"> The City enter into a License Agreement with Ports Toronto (the "License Agreement"), to allow the reconstruction of the dockwall by the City, on the Licensed Area, substantially on the terms and conditions outlined herein, and any other terms the Director, Real Estate Services may deem appropriate, and in a form satisfactory to the City Solicitor; The Director, Real Estate Services, or his/her designate, administer and manage the License Agreement including the provision of any consents, approvals, waivers, notices and notices of termination provided that the Director, Real Estate Services, may, at any time, refer consideration of such matters to City Council for its determination and direction; and
Financial Impact	<p>There are no financial implications relating to this Licence. The Licence is for nominal consideration.</p> <p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>The City of Toronto is the owner of the dockwall located at the end of Eireann Quay between, the Airport terminal and Portland Slip. Ports Toronto is the owner of the water lot adjacent to the dockwall.</p> <p>The City intends to reconstruct the dockwall and increase its size to include the Fill Lands of the Licensed Area. The City requires the Adjacent Area during construction of the dockwall to allow for construction barges to moor at that location during construction. Construction is scheduled to begin immediately and will take approximately 2 years to complete. Costs for the reconstruction will be paid from Capital Account CCA229-14.</p> <p>Although the intention is for Ports Toronto to convey the Fill Lands to the City, they have not begun their property disposal process yet, and as construction is set to begin immediately, it is necessary to enter into the Licence Agreement for 5 years to allow construction to begin. A further Delegated Authority will be submitted for the conveyance of the Fill Area once this process is completed.</p>

Terms

Term: Filled Lands – 5 years
Adjacent Lands – 2 years

Use: During the Adjacent Area Term, the City is permitted to use the Licensed Area solely for the purposes of creating the Filled Lands and constructing the Improvements on the Filled Lands. During the remainder of the Term, the City is permitted to use the Filled Lands for a public promenade.

1. The City is responsible for any and all costs, charges and expenses which may be required in connection with or result from the use or operation of the Licensed Area including, but not limited to utilities, taxes (if any), and the costs, charges and expenses required for the City to comply with its obligations under this Agreement.
2. The City will own the reconstructed dockwall, including the dockwall on the Filled Lands, during and after construction.
3. The City acknowledges that the Pedestrian Tunnel is in the vicinity of the Licensed Area and that the City's chosen construction method may impact on the Pedestrian Tunnel. Accordingly, the City covenants and agrees in favour of the Ports Toronto, notwithstanding anything to the contrary contained herein, the City shall:
 - (a) construct the Project in a manner which is in full compliance with City of Toronto By-law 514-2008 and the WSP Plan; and
 - (b) agree with Ports Toronto, both parties acting reasonably, to assess if there is a sufficient level of noise or vibration occurring to raise concern on the first day of In-Water Works being performed. If the parties agree that this has occurred, then, during the initial two week period of In-Water Works, at its sole cost and expense, the City shall provide one individual inside the Pedestrian Tunnel (the "Informational Staff") to communicate with users, advising them of the ongoing construction in the vicinity and that any noise and/or vibration that is heard or felt is a result of such construction and that the safety of the Pedestrian Tunnel is not impacted. The personnel provided by the City to perform this function will comply with the Official Languages Act (Canada). After such initial two-week period both parties, acting reasonably, agree to assess the need for any ongoing Informational Staff to be provided. If the parties agree that Information Staff are required following the initial two-week period then such individuals will be provided by the City at its sole cost and expense;
 - (c) at its sole cost and expense to provide signage which informs the public of the construction and the related noise and vibration inside the Pedestrian Tunnel, such signage being in form and substance satisfactory to Ports Toronto; and
 - (d) commence the Project at the western end of the Licensed Area and work in an easterly direction.
4. For the purpose of this Licence a "Suspension Event" means:
 - (a) the City's work is not in compliance with City of Toronto By-law No. 514-2008; or
 - (b) the City's work is not conducted in accordance with the WSP Plan; or
 - (c) the Pedestrian Tunnel experiences more than 1,500 litres a day of water ingress as measured by Ports Toronto.

If a Suspension Event described in (a) or (b) above occurs then, upon receipt of written notice from Ports Toronto, the City shall immediately suspend all work in the Licensed Area until such time that it is advised, in writing, by Ports Toronto that it may recommence its work in the Licensed Area.

If a Suspension Event described in (c) above occurs, then Ports Toronto shall advise the City and shall forthwith investigate the cause of the water ingress. If, following its investigation, Ports Toronto, acting reasonably, believes that the proper treatment of the water ingress requires the City to suspend its In-Water Works in the Licensed Area, then Ports Toronto shall have the right to provide the City with a written notice to suspend all In-Water Works in the Licensed Area for a period not to exceed 48 hours (the "Suspension Notice") to allow for the proper treatment of the water ingress. Ports Toronto acknowledges that a suspension of the City's work in the Licensed Area will impact the City's construction schedule and result in increased cost to the City. Accordingly, prior to issuing a Suspension Notice, Ports Toronto covenants and agrees to take all reasonable steps to schedule the leak treatment over a weekend so as not to impact the City's work; provided that both parties acknowledge and agree that there may be situations where the severity of the water ingress and/or the amount of treatment required results in it not being practicable or feasible for Ports Toronto to delay the treatment until a weekend.

For clarity, the parties agree that a Suspension Event shall not be interpreted to prohibit work that is not In-Water Works, taking place on site outside of the Licensed Area. Furthermore, the parties agree to employ reasonable efforts and mutual cooperation to mitigate possible work stoppages or delays during a Suspension Event. The parties agree, acting reasonably, to assess each Suspension Event independently and determine if In-Water Works may be permitted to continue at the eastern end of the Licensed Area during the Suspension Event.

5. Upon the expiration or termination of this Agreement, the City, at its own cost, shall:

(a) remove all the City's Equipment upon or in the Licensed Area, other than the Improvements and Alterations, and other than the City's Equipment that the Ports Toronto agrees in writing may remain on the Licensed Area, which City's Equipment shall become the property of the Ports Toronto; and

(b) repair any damage caused by such removal and restore the Licensed Area to the condition in which it existed prior to such removal.

Property Details	Ward:	10 – Spadina - Fort York
	Assessment Roll No.:	
	Approximate Size:	Filled Lands: 124.46 metres x 1.15 metres Adjacent Area: 125 metres x 10 metres
	Approximate Area:	Filled Lands: 143.13 square metres Adjacent Area: 1,250 square metres
	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/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 & 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 \$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 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 checked="" 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/REOs.</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>
<p>B. Director, Real Estate Services and Manager, Real Estate Services each has signing authority on behalf of the City for:</p>		
<ul style="list-style-type: none"> • 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). 		
<p>Director, Real Estate Services also has signing authority on behalf of the City for:</p>		
<ul style="list-style-type: none"> • 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:	Joe Cressy					Councillor:									
Contact Name:	Brent Gilliard					Contact Name:									
Contacted by:	Phone	X	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	No objections – July 2, 2019					Comments:									
Consultation with Divisions and/or Agencies															
Division:	Waterfront Secretariat / Facilities Management					Division:	Financial Planning								
Contact Name:	Bryan Bowen / Joe Bandl					Contact Name:	Lauren Birth								
Comments:	Concurs – June 26, 2019					Comments:	Concurs – June 27, 2019								
Legal Division Contact															
Contact Name:	Ray Mickevicius – July 4, 2019														

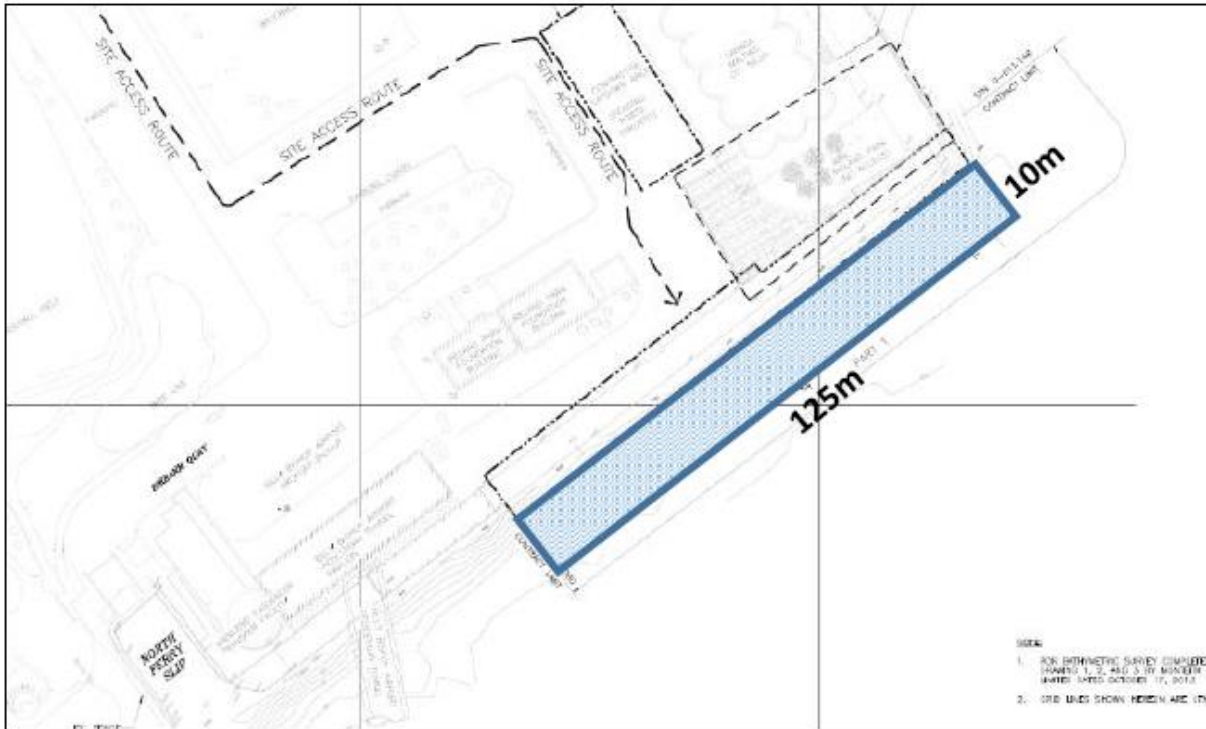
DAF Tracking No.: 2019-171	Date	Signature
Concurred with by: Manager, Real Estate Services Peter Cheng	July 8, 2019	Signed by Peter Cheng
<input type="checkbox"/> Recommended by: Acting Manager, Real Estate Services Melanie Hale-Carter	July 9, 2019	Signed by Melanie Hale-Carter
<input checked="" type="checkbox"/> Approved by:		
<input type="checkbox"/> Approved by: Acting Director, Real Estate Services Nick Simos		X

General Conditions ("GC")

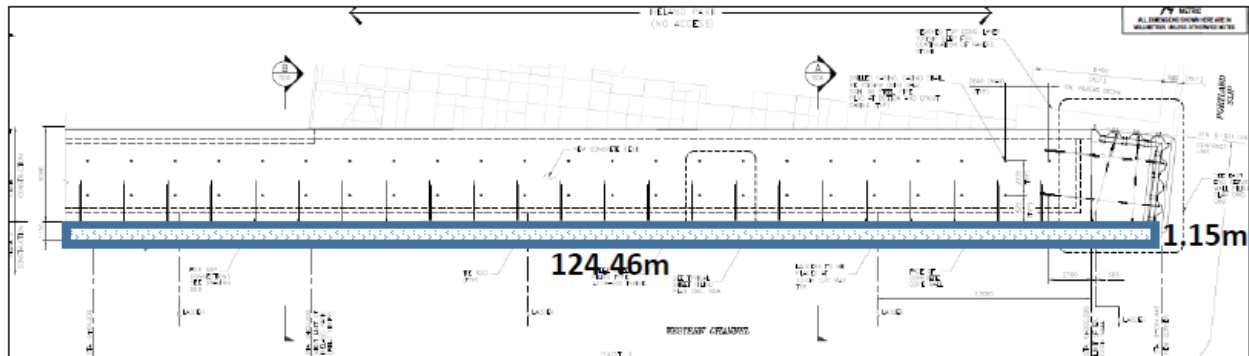
- (a) The local Councillor (or local Councillors if the subject property is located on a ward boundary or if the transaction involves an exchange of properties in more than one ward), will be consulted prior to the exercise of delegated Approving Authority by staff for all Acquisitions, Disposals, Land 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, 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.
- (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")

SCHEDULE "A"

Area of Temporary In-Water Works License to Support Western Channel Dockwall Rehab Project



Area of Permanent Infill to Support Western Channel Dockwall Rehab Project



143.13sq.m. permanent fill area within PortsToronto-owned Western Channel

Notes:

- 1: Excludes area of permanent infill within adjacent City-owned Portland Slip
- 2: Measured from face of existing dockwall