

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

TRACKING NO.: 2019-213

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:	Jack Harvey	Division:	Real Estate Services
Date Prepared:	August 6, 2019	Phone No.:	7-7704

Purpose	To acquire a licence over the Licensed Lands, as defined below, from Toronto Hydro-Electric System Limited (" Toronto Hydro "), in their capacity as tenants of the Property, as defined below, in order to construct a drop shaft, vent shaft, air shaft, deaeration chamber and adit tunnel to connect to the Coxwell Bypass Tunnel, all of which is being built as part of the Don River & Central Waterfront Wet Weather Flow Project.
Property	Part of the lands municipally known as 500 Commissioners Street (the "Property") being Part 1 and Part 2 on Reference Plan 66R-30094, attached hereto as Appendix "B"(the " Licensed Lands ")
Actions	<ol style="list-style-type: none"> The City enter into a Licence Agreement (the "Agreement") with Toronto Hydro on such terms and conditions as set out in Appendix "A" hereto, subject to modification, and any other terms the Deputy City Manager, Internal Corporate Services may deem appropriate, and in a form satisfactory to the City Solicitor; and The appropriate City Officials be authorized and directed to take the action necessary to give effect thereto
Financial Impact	<p>Total cost to the City for entire term of the licence (inclusive of the six month extension) is \$244,842.37 (plus HST) or \$249,151.60 (net of HST recoveries). This includes the total licence fee of \$204,652.37 (plus HST) or \$208,254.25 (net of HST recoveries) as well as Licensor's direct costs, but not limited to property taxes and insurance, and additional costs of \$40,190.00 (plus HST) or \$40,897.34 (net of HST recoveries). Funding is available in 2019-2028 Council Approved Capital Budget and Plan for Toronto Water (CWW480-01).</p> <p>The Chief Financial Officer & Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>The Don River & Central Waterfront Wet Weather Flow Program will protect water quality in the Lower Don River and the Inner Harbour by keeping combined sewer overflow out of City waterways by capturing it within the tunnel system, transporting it for treatment and storing it during extreme rainstorms until system capacity is available and water can be transported for treatment. The program is made-up of several individual projects that will work together.</p> <p>The Agreement will authorize the City's contractor to build a separate, temporary entrance into the Property off Lakeshore, set up a fully contained construction site and install and commission a drop shaft, vent shaft and airshaft, deaeration chamber and adit tunnel connecting to the Coxwell Bypass, all in accordance with specifications that have been approved by Toronto Hydro. While these works are being installed, the City will negotiate a permanent easement with the owner of the Property, Toronto Economic Development Corporation, in order to authorize the long term use and maintenance of same. Authority for the easement will be sought separately once the terms of same have been negotiated.</p>
Terms	See Page 4.

Property Details	Ward:	14- Toronto-Danforth
	Assessment Roll No.:	N/A
	Approximate Size:	19,188.2 square feet
	Approximate Area:	N/A
	Other Information:	N/A

A.	Manager, Real Estate Services has approval authority for:	Director, Real Estate Services has approval authority for:
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:	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, Transaction Services 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, Corporate Services and any related documents.

Consultation with Councillor(s)									
Councillor:	Paula Fletcher					Councillor:			
Contact Name:	Susan Baker					Contact Name:			
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail		Memo		Other		
Comments:	No objection as of August 1, 2019					Comments:			
Consultation with Divisions and/or Agencies									
Division:	Engineering & Construction Services					Division:	Financial Planning		
Contact Name:	Robert Mayberry / Samantha Fraser					Contact Name:	Filisha Jenkins		
Comments:	Approved					Comments:			
Legal Division Contact									
Contact Name:	Jennifer Davidson / Catherine Thomas								

DAF Tracking No.: 2019-213	Date	Signature
Concurred with by: N/A		
<input checked="" type="checkbox"/> Recommended by: Manager, Real Estate Services	Aug. 9, 2019	Signed by Alex Schuler
<input type="checkbox"/> Approved by:		
<input type="checkbox"/> Approved by: Acting Director, Real Estate Services Nick Simos	Aug. 9, 2019	Signed by 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.
- (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 & CONDITIONS

Licensor: Toronto Hydro-Electric Limited

Licensee: City of Toronto

Term: twelve months commencing upon delivery of notice. Term may be extended for an additional six months upon not less than 45 days notice prior to expiry of initial term.

Fee: Total Licence fee \$204,652.37 (plus HST) or \$208,254.25 (net of HST recoveries) including Licensor's direct costs but not limited to property taxes and insurance. Also inclusive of Licence Extension of six months.

Additional Costs:

	Amount	HST	Total
Appraisal	\$8,750.00	\$1,137.50	\$9,887.50
Environmental review	\$1,440.00	\$187.20	\$1,627.20
Legal Fees	\$30,000.00	\$3,900.00	\$33,900.00
Total Additional Costs	\$40,190.00	\$5,224.70	\$45,414.70

Use: The Agreement entitles the City as Licensor to do the following on the Licensed Lands:

- undertake engineering studies, soil tests, soil compaction studies and environmental studies and audits of the Licensed Lands ;
- storage of construction equipment, vehicles, materials and other personal property at grade and marshalling and/or assembling same;
- site preparation works, including but not limited to grading, tree removal and the placement of temporary structures and facilities;
- excavation and installation of a 2400 mm diameter drop shaft, 900 mm diameter vent shaft, an interconnecting 900 mm diameter airshaft, a horizontal 3800 mm diameter deaeration chamber and 2550 mm diameter adit connecting to the Coxwell Bypass Tunnel, commissioning, testing, altering and modifying of same but, notably, not the actual use thereof;
- restoration of the Licensed Lands prior to the expiration of the Term or any extended term, in accordance with the Approved Specifications,

Insurance: City must obtain:

- commercial general liability insurance with coverage of not less than ten million dollars (\$10,000,000.00) per occurrence with property damage deductible of not more than one hundred thousand dollars (\$100,000.00), which shall be extended to cover contractual liability, products and completed operations liability, contingent employer's liability, owners/contractors protective liability and must also contain a cross liability clause and a severability of interest clause, and must name Toronto Hydro and its affiliates as additional insureds;
- automobile liability insurance on all owned and non-owned vehicles used on the Licensed Lands and such insurance coverage shall have a limit of not less than two million dollars (\$2,000,000.00) per vehicle, in respect of bodily injury (including passenger hazard) and property damage inclusive of any one accident and mandatory accident benefits;
- Errors and Omissions Insurance (Professional Liability) covering actual or alleged acts, errors or omissions committed by the Licensee or its representatives which shall also extend to include personal injury, bodily injury and property damage from the performance of professional services, in the amount of not less than five million dollars (\$5,000,000.00); and
- shall cause its general contractor to carry (i) Pollution liability ("PL") insurance with limits of not less than fifteen million dollars (\$15,000,000.00) per occurrence. Such PL insurance shall cover claims for bodily injury, property damage, clean-up costs (having an aggregate limit of five million dollars (5,000,000.00) and related legal defense expenses for pollution conditions that result from, or are disrupted by, the services rendered in performance of the Permitted Activities by or on behalf of the Licensee and shall apply to pollution conditions on, at, under, or migrating from the Licensed Lands caused by the Licensee, its agents, contractors, subcontractors or consultants.
- the City will satisfy the above noted obligations in accordance with the Owner Controlled Insurance Program that was put in place by the City for the DR&CW project.

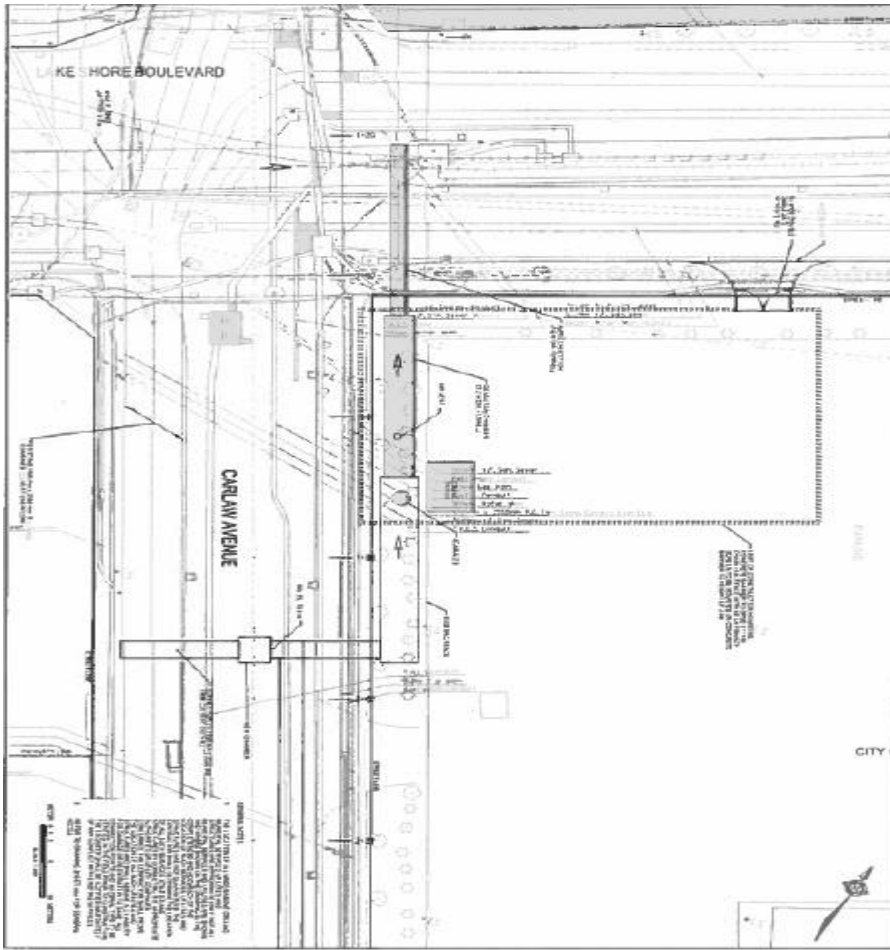
Indemnity: City is to indemnify and save Toronto Hydro harmless from any and all claims made against it, its representatives or its property in respect of any loss or damage directly or indirectly arising out of City's use of the Licensed Lands or the impact of such use on adjoining lands. The City must further

Parking: City agreed to maintain permit free and non-metered on-street parking on Commissioners between Leslie and Bouchette.

Dispute Resolution:

- Toronto Hydro is permitted to inspect how work is being carried out on the Licensed Lands. City must be prepared to modify, at our sole cost, our use of the Licensed Lands upon written notice from Toronto Hydro that activities are interfering with Toronto Hydro's use and enjoyment of the Property. An escalation process is in place to resolve disputes surrounding City delivered mitigation plans.

**APPENDIX "B" - Location Map
4CAR / 4LES
(Lakeshore Blvd. E & Carlaw Ave)**



4CAR / 4LES

4CAR / 4LES

