

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

TRACKING NO.: 2019-243

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:	Bruno Iozzo	Division:	Real Estate Services
Date Prepared:	September 6, 2019	Phone No.:	(416) 392-8151

Purpose
 To obtain authority for the City of Toronto (the "City") to enter into a licence agreement (the "Licence") with Toronto Hydro-Electric System Limited (the "Licensor") to permit the City to enter the Licensor's lands to undertake the "Permitted Activities" contemplated in the Licence including the storage of vehicles, supplies, machinery and other personal property at grade as well as the placement of temporary structures and facilities on the Licensor's lands related to the Don River Sewer rehabilitation project.

Property
 The lands municipally known as 4042 Yonge Street (the "Licensed Lands") located on the south-west corner of Yonge Street and Wilson Avenue/York Mills Road and legally described as Part of Lots 93, 94 & 95 on Plan 204, as in NY197724, save and except NY257575 & Part 16, 64R1417, subject to NY197724, North York, City of Toronto, bearing PIN No. 10355-0255 (LT), as shown on the maps attached hereto as Appendix "B".

- Actions**
1. Authority be granted to enter into the Licence with the Licensor, substantially on the terms and conditions set out below, and any other or amended terms and conditions as determined by the Acting Director of Real Estate Services, and in a form acceptable to the City Solicitor.
 2. The Deputy City Manager, Corporate Services or their designate shall administer and manage the Licence including the provision of any consents, approvals, waivers, and notices provided that the Deputy City Manager, Corporate Services may, at any time, refer consideration of such matters to City Council for its determination and direction.
 3. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact
 The City will incur a licence fee of \$9,723.86 (plus HST or \$9,895.00 net of HST recoveries) for the Licence. Should the City exercise its option to extend the Licence, it will incur an additional cost of up to \$4,861.92 (plus HST or \$4,947.49 net of HST recoveries) for a total cost of \$14,585.78 (plus HST or \$14,842.49 net of HST recoveries).
 In addition, the City will reimburse the Licensor for its external legal costs up to a maximum of \$6,000.00 (plus HST or \$6,105.60 net of HST recoveries). If requested, the City will also provide the Licensor with a fee of \$1,000.00 (plus HST or \$1,017.60 net of HST recoveries) for internal and other costs incurred by the Licensor to administer and enforce the Licence.
 Funding for these costs is available in the 2019-2028 Council Approved Capital Budget and Plan for Toronto Water under account number CWW014-16.
 The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.

Comments
 The City's West Don Sanitary Trunk Sewer (the "Sewer") is in need of rehabilitation and repairs. To assist with the construction project, vacant lands located within a close proximity of the Sewer are required to store construction machinery and equipment. The Licensed Lands are strategically located close to the Sewer, which will greatly reduce delivery times of the required equipment.
 The Licensed Lands are currently vacant and available for use. As such, the Licensor has agreed to permit the City to utilize the Licensed Lands in accordance with the Licence.

Terms
 Please see Appendix "A" on page 4.

Property Details	Ward:	8 – Eglinton-Lawrence
	Assessment Roll No.:	19 08 063 540 002 60
	Approximate Size:	122 feet X 148 feet (irregular shape)
	Approximate Area:	17,860 ft ²
	Other Information:	Vacant Land

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>

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:	Mike Colle				Councillor:					
Contact Name:	Lola Dandybaeva – Chief of Staff				Contact Name:					
Contacted by:	Phone	X	E-Mail	Memo	Other	Contacted by:	Phone	E-mail	Memo	Other
Comments:	No concerns (Aug/21/2019)				Comments:					
Consultation with Divisions and/or Agencies										
Division:	Engineering & Construction Services				Division:	Financial Planning				
Contact Name:	Tarun Harjani				Contact Name:	Filisha Jenkins				
Comments:	No comments (Aug/22/2019)				Comments:	Revisions included (Aug/23/2019)				
Legal Division Contact										
Contact Name:	Jacqueline Kiggundu (Sept/5/2019)									

DAF Tracking No.: 2019-243	Date	Signature
Concurred with by: Melanie Hale-Carter Acting Manager, Real Estate Services	Sept. 6, 2019	Signed by Melanie Hale-Carter
<input type="checkbox"/> Recommended by: Daran Somas Acting Manager, Real Estate Services	Sept. 6, 2019	Signed by Daran Somas
<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.
- (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

Licensors

Toronto Hydro-Electric System Limited

Licensee

City of Toronto

Term

Eight (8) months. Term may be extended for up to four (4) additional months upon not less than one (1) week prior written notice to the Licensor.

Commencement Date

Date upon which the Licence is executed by both parties.

Licence Fee

\$9,723.86 (plus HST) for the initial eight month term. \$1,215.48 (plus HST) per month for the possible extension (up to a maximum of four additional months). The Licence Fee is calculated based on the Licensor's direct costs associated with the Licensed Lands which include (but are not limited to) property taxes and insurance.

Permitted Activities

Storing vehicles, supplies, machinery, gear and construction equipment and other personal property at grade and the placement of temporary structures and facilities.

Insurance

The following insurance coverage is required by the Licensee:

- Commercial General Liability (not less than \$5,000,000 per occurrence) naming Licensor as an additional insured
- Pollution Liability (not less than \$5,000,000 per occurrence)
- Automobile Liability (minimum limit of \$2,000,000)

Indemnity

The Licensee shall at all times indemnify and save harmless the Licensor and its representatives against all claims/liens, etc. directly or indirectly arising out of or resulting from or sustained as a result of the Licensee's use of the Licensed Area during the term of the Licence.

Legal Fees

Licensee shall pay the Licensor up to \$6,000.00 (plus HST) which represents the Licensor's external legal costs for the preparation and negotiation of the Licence

Restoration

Upon expiry or termination, the Licensee shall remove all fixtures and restore the Licensed Area, to the extent practicable, to its original condition immediately prior to the Licensee's occupancy, at the Licensee's sole cost and expense, all to the satisfaction of the Licensor, acting reasonably.

Licensor's Internal/Other Costs

The Licensee shall pay (on demand of the Licensor) a fee for the internal and other costs incurred by the Licensor in respect of the negotiation, preparation, administration and enforcement of the Licence. Such fee shall not exceed \$1,000.00 (plus HST).

Appendix "B" – Location Map (4042 Yonge Street)

