

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

TRACKING NO.: 2019-250

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:	Trixy Pugh	Division:	Real Estate Services
Date Prepared:	September 9, 2019	Phone No.:	416-392-8160

Purpose	To obtain authority for the City to enter into agreements to provide a temporary licence and permanent easement over a portion of the property located at 85 Ellesmere Avenue (the "Property"), owned by First Capital Holdings (Ontario) Corporation ("FCT"). The subject property interests are required to construct and house a Wheel-Trans Access Hub (the "Access Hub") pursuant to the Toronto Transit Commission (TTC) Wheel-Trans Transformation Program.
Property	Part of the property located on the south-east corner of Ellesmere Avenue and Victoria Park Avenue with a municipal address of 85 Ellesmere Road, Toronto, Ontario and legally described as Parcel A-1, Section M646 Block A Plan 66M646 except Unit 1 Expropriation Plans D81 & D82 Subject to LT55124, City of Toronto, being all of PIN: 06323-0001 (LT) in the Land Registry Office of Toronto (No. 66) in Land Titles Division, identified in cross-hatch on Appendix "A" attached hereto (the "Licensed Area").
Actions	<ol style="list-style-type: none"> 1. Authority be granted for the City to enter into a temporary licence agreement (the "Licence") with FCT in which the City/TTC will be permitted to enter and use the Licensed Area for construction purposes between the dates of September 9, 2019 and October 23, 2019. 2. Authority be granted for the City to enter into a permanent easement agreement (the "Easement") over the land described as Part 1 on Plan 66R-30861, attached hereto as Appendix "B", for the housing and operation of the TTC Wheel-Trans Access Hub.
Financial Impact	<p>The total cost to the City is \$20,000.00 as detailed below:</p> <p>Temporary Licence: \$1,500.00 Permanent Easement = \$16,000.00 Legal Fees = \$2,500.00</p> <p>Funding is available in the 2019 Council Approved Capital Budget and 2020 – 2028 Plan for TTC under capital account CTT110-01.</p> <p>The Chief Financial Officer & Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	The demand for TTC's Wheel-Trans service has increased by more than 29% over the last five years and is expected to continue to increase with the aging population and the (AODA mandated) changes to eligibility. With the TTC's conventional transit services increasingly accessible, changes can be made to the service delivery model for Wheel-Trans to make better use of limited resources while also adapting and adhering to new provincial legislation through the implementation of a "Family of Services" approach. Family of Services being the utilization of Wheel-Trans and conventional transit modes (bus, subway or streetcar services) for a portion of a trip. The construction of Access Hubs at various strategic locations throughout the city will facilitate the transfer of customers between the Wheel-Trans and conventional transit system in order to implement the Family of Services approach.
Terms	See page 4

Property Details	Ward:	Ward 21 – Scarborough Centre
	Assessment Roll No.:	n/a
	Approximate Size:	Irregular

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: N/A	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 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. Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.	<input 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 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.
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. Delegated to a more senior position.	<input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million. <input type="checkbox"/> (b) When closing roads, easements to pre-existing utilities for nominal consideration.
12. Easements (City as Grantee):	<input checked="" 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, 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, Internal Corporal Services and any related documents.

Consultation with Councillor(s)										
Councillor:	Councillor Michael Thompson					Councillor:				
Contact Name:	Councillor Michael Thompson					Contact Name:				
Contacted by:	Phone	X	E-Mail	Memo	Other	Contacted by:	Phone	E-mail	Memo	Other
Comments:	Notified August 16, 2019					Comments:				
Consultation with Divisions and/or Agencies										
Division:	TTC					Division:	Financial Planning			
Contact Name:	David Cooper					Contact Name:	Filisha Jenkins			
Comments:	Incorporated into DAF (Sept 3, 2019)					Comments:	Incorporated into DAF (Sept 5, 2019)			
Legal Division Contact										
Contact Name:	Gloria Lee – Real Estate Legal Services									

DAF Tracking No.: 2019-250	Date	Signature
Concurred with by: Acting Manager, Real Estate Services Melanie Hale-Carter	Sept. 9, 2019	Signed by Melanie Hale-Carter
<input type="checkbox"/> Recommended by: Manager, Real Estate Services Daran Somas	Sept. 9, 2019	Signed by Daran Somas
<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.

Terms**Temporary Easement – Major Provisions:**

- (i) Term: September 9, 2019 to October 23, 2019
- (ii) Fee: \$1,500.00
- (iii) The City shall be responsible at its sole cost and expense for the repair, replacement and general day-to-day maintenance of the Licensed Area including the obligation to ensure that the Licensed Area is kept reasonably clear of snow, ice, garbage and litter.
- (iv) The City shall maintain commercial general liability insurance against claims for bodily injury (including death), personal injury and property damage arising out of or in connection with the use as set out in Section 3 of the Licence agreement and the City's exercise of the Licence in an amount not less than ten million dollars (\$10,000,000.00) per occurrence.

Permanent Easement – Major Provisions:

- (i) Fee: \$16,000.00
- (ii) Upon the termination of the term of the Easement, by expiry or otherwise, the City shall remove the Access Hub, or that portion thereof which is situated on FCT's Property.

Appendix 'A'

Temporary Easement Lands



