

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

TRACKING NO.: 2019-323

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:	Avery Carr	Division:	Real Estate Services
Date Prepared:	November 6, 2019	Phone No.:	416-338-3250

Purpose	To obtain authority to enter into a License Agreement (the "Agreement") with Enbridge Gas Inc. (the "Licensee") over a portion of 35 Vanley Crescent for the purposes of installing telemetry equipment for a Renewable Natural Gas Facility, as contemplated under the Biogas Services Agreement between the City and Enbridge Gas Inc.
Property	35 Vanley Crescent (the "Property") which is owned by the City of Toronto. The licensed area is shown in Appendix "C" (the "Licensed Area").
Actions	1. Authority be granted to enter into a License Agreement with the Licensee for the use of the Licensed Area, substantially on the terms and conditions set out on page 4, and such other or amended terms and conditions as may be deemed appropriate by the Director of Real Estate Services (the "Director"), and in a form satisfactory to the City Solicitor.
Financial Impact	<p>There is no financial impact resulting from this approval. The License agreement is for nominal consideration. The City will receive \$2 (exclusive of HST) in license fees for the full term, as contemplated by the underlying Biogas Service Agreement requirements for the project as a whole (PW13.8, June 7, 8, and 9, 2016).</p> <p>The City shall not charge any additional fees to the Licensee, including all utilities used by the Licensee, any increase in realty taxes, rates, assessment or other charges levied against the Property as a result of the Licensee's use of the Property; or any fees for renewals, extensions, amendments and consents to assignment of the Agreement.</p> <p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>On June 7, 2016, City Council authorized the General Manager of Solid Waste Management to administer and manage Renewable Natural Gas Projects, including the provision of any consents and approvals. On December 15, 2017, the City and the Licensee entered into a Biogas Services Agreement, which allowed the Licensee to construct facilities and supply services for a Renewable Natural Gas project on a portion of the Property, as documented by lease and easement agreements (EX35.24 approved on June 27, 28, and 29, 2019; DAF 2018-063).</p> <p>As part of the Renewable Natural Gas project on the Property, the Licensee has requested permission from the City to use portions of the Property for telemetry systems services to monitor and communicate gas pressure readings for the exclusive use of the Licensee, as part of the pressure protection and safety program. The City has agreed to grant such permission subject to the terms and conditions outlined on page 4 and in the Agreement.</p> <p>The Licensed Area is owned by the City (under the operational management of Solid Waste Management). Solid Waste Management has agreed to nominal compensation as the project benefits both the Licensee and the City, as authorized by the City Council decision on June 7, 2016.</p>
Terms	Real Estate Services staff consider the major terms and conditions of the License Agreement contained on page 4 to be fair, reasonable, and reflective of market value.

Property Details	Ward:	6 – York Centre
	Assessment Roll No.:	19 08 033 415 016 00
	Approximate Size:	Irregular
	Approximate Area:	238,437.8 m ² ± (2,566,522.8 ft ² ±)
	Other Information:	License fee is applicable only to 9.3 m ²

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 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 checked="" 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:	James Pasternak					Councillor:									
Contact Name:	Arni Olafson					Contact Name:									
Contacted by:	Phone	X	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	No objections (Nov 6, 2019)					Comments:									
Consultation with Divisions and/or Agencies															
Division:	Solid Waste Management					Division:	Financial Planning								
Contact Name:	Shelby Fallis					Contact Name:	Filisha Jenkins								
Comments:	No concerns (Nov 5, 2019)					Comments:	Comments incorporated (Nov 4, 2019)								
Legal Division Contact															
Contact Name:	Jennifer Davidson (Nov 6, 2019)														

DAF Tracking No.: 2019-323	Date	Signature
Concurred with by: Manager, Real Estate Services Daran Somas		
<input type="checkbox"/> Recommended by: Manager, Real Estate Services Daran Somas	Nov. 12, 2019	Signed by Daran Somas
<input type="checkbox"/> Approved by: Acting Director, Real Estate Services Nick Simos	Nov. 14, 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" – Terms and Conditions

Major terms and conditions of the Agreement are as follows:

Owner/Licensor:	City of Toronto
Licensee:	Enbridge Gas Inc.
Licensed Area:	Part of the property municipally known as 35 Vanley Crescent, Toronto, and shown on the Licensed Area drawing in Appendix "C". Size is approximately 9.3 square metres.
Commencement Date:	July 15, 2019
Expiry Date:	The earlier of the termination of the Biogas Services Agreement or July 14, 2034 (the "Term")
License Fee:	\$2 per year, plus HST
Use:	The Agreement will enable the Licensee to have access to the Property at all times to operate, install, use, repair and maintain the Licensee's equipment and to operate, provide and support the Licensee's services, as outlined in the Agreement.
Equipment Removal:	Upon expiry or termination of the License for any reason, the Licensee shall immediately remove all the Licensee's Equipment and any other chattels and/or fixtures installed by the Licensee, return the Licensed Area to its original condition and repair any damage caused by the installation and removal of the Equipment.
Insurance:	The Licensee shall carry and maintain the insurance coverages stipulated in section 17.02 of the Biogas Service Agreement including both insurance coverages for the Term and additional insurance coverages and types for the project construction period.

Appendix "B" – Location and Site Map – 35 Vanley Crescent



