

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

TRACKING NO.: 2019-242

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:	Mark Filice	Division:	Real Estate Services
Date Prepared:	October 15, 2019	Phone No.:	416-392-1830

Purpose	To obtain authority to enter into a License Agreement (the "Agreement") with Metrolinx (the "Owner") for a term of two (2) years, with an option to extend for an additional period of three (3) months, to use a portion of the rail corridor commonly known as the Bala Subdivision (the "Rail Corridor") to conduct geotechnical borehole soil testing and commence construction of a portion the East Don Trail (the "Trail").
Property	Part of the lands referred to as Mile 7.72 of the Rail Corridor, being part of PIN 10372-0887 (LT), and shown on the drawing attached hereto as Appendix "C" (the "Crossing Lands"). Part of the lands referred to as Mile 7.30 of the Rail Corridor, being part of PIN 10372-0655 (LT), and shown on the drawing attached hereto as Appendix "D" (the "Borehole Lands").
Actions	<ol style="list-style-type: none"> 1. Authority be granted to enter into the Agreement between the City of Toronto and the Owner, substantially on the terms and conditions set out in Appendix "A" together with any other terms and conditions as may be satisfactory to the Manager, Real Estate Services, or their designate, and in a form acceptable to the City Solicitor; 2. The Manager, Real Estate Services, or their designate, shall administer and manage the Agreement, including the provision of any consents, approvals, waivers, notices and notices of termination provided that the Manager, Real Estate Services, or their designate, may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction; 3. The appropriate City officials are authorized and directed to take the necessary action to give effect thereto; 4. The City Solicitor be authorized to complete the transaction on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as he/she considers reasonable.
Financial Impact	<p>The City agrees to pay Metrolinx \$8,000 (plus HST) or \$8,140.80 (net of HST recoveries) at the commencement of the two (2) year term as compensation in full for the acquisition and exercise of the license.</p> <p>Funding is available in the 2019 – 2028 Council Approved Capital Budget and Plan for Transportation Services under the capital account CTP860-08-05.</p> <p>The Chief Financial Officer & Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>The Trail implementation was approved by Council as per the Trails Plan 2012 and the Cycling Network Plan 2016. The Trail is also a Council approved PTIF (federal funded) project.</p> <p>Transportation Services requires temporary access onto and across a Metrolinx corridor to commence construction of the Trail. Transportation is working in partnership with Parks and TRCA on this project and construction has already begun starting in October 2018, as there are a number of access points into the valley.</p>
Terms	Please see page 4 for terms and conditions of the Agreement.

Property Details	Ward:	16 – Don Valley East
	Assessment Roll No.:	
	Approximate Size:	
	Approximate Area:	420m ² (Access Lands) / 150m ² (Borehole Lands)
	Other Information:	

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 checked="" 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:	Denzil Minnan-Wong				Councillor:					
Contact Name:					Contact Name:					
Contacted by:	Phone	X	E-Mail	Memo	Other	Contacted by:	Phone	E-mail	Memo	Other
Comments:	No Objections				Oct 17, 2019	Comments:				
Consultation with Divisions and/or Agencies										
Division:	Transportation Services				Division:	Financial Planning				
Contact Name:	Justin Bak				Contact Name:	Filisha Jenkins				
Comments:	No Objections				Sept 24, 2019	Comments:	No Objections			
Sept 25, 2019										
Legal Division Contact										
Contact Name:	Emily Ng									Sept 20, 2019

DAF Tracking No.: 2019-242	Date	Signature
Concurred with by: Supervisor, Real Estate Services		
<input checked="" type="checkbox"/> Recommended by: Manager, Real Estate Services Alex Schuler	October 31, 2019	Signed by Alex Schuler
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Manager, Real Estate Services Daran Somas	October 31, 2019	Signed by Daran Somas

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 license are as follows:

Grantor:	Metrolinx
Grantee:	City of Toronto
Property:	Part of the property referred to as Miles 7.30 and 7.72 of the Rail Corridor, labeled as on the drawing attached to Appendix "C" and Appendix "D".
Consideration:	\$8,000 plus HST.
Commencement Date:	The License shall commence no less than two (2) weeks' notice delivered by the City to the Owner in accordance with the terms of this Agreement.
Term:	The term of this Agreement shall be for a period of two (2) years to commence upon no less than two (2) weeks written notice delivered by the City to Metrolinx
Use:	The City requires to access onto and across the Property to commence construction of a portion the East Don Trail and to conduct geotechnical soil testing.
Restoration:	Upon expiry of the Term or termination of the License, the City shall at their own expense repair any and all damage caused to the Property arising or resulting from the Work and restoring same to a condition as reasonably good as immediately preceding the work. Restoration shall include restoration or, where restoration is not reasonably possible, reinstallation of the fence that is removed as part of the geotechnical work.

Appendix "B" - Location and Site Map



