

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

**TRACKING NO.: 2019-193**

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:	Robin Chen	Division:	Real Estate Services
Date Prepared:	September 12, 2019	Phone No.:	416-392-1852

<b>Purpose</b>	To obtain authority to enter into a Mutual Easement and Shared Facilities Agreement (the "MESF Agreement") with 5200 Yonge G.P. Inc., the developer and owner (the "Developer") of the mixed-use condominium development at 5200 Yonge Street, to allow City of Toronto access for operation and maintenance of its retail space to be transferred from the Developer as part of the project's Section 37.
<b>Property</b>	The lands and premises legally described as: FIRSTLY: Parts 1, 2, 3, 23, 24, 25, 27, 30, 32, 33, 34, 36, 37, 38, 39, 40,44, 45, 47, 50, 51, 53-61(both inclusive), and 63, 71, 73, 79, 80, and 81 on the Reference Plan No. 66R-30847 (the "Condominium Lands"); SECONDLY: Parts 4-22 (both inclusive), 29, 31, 41, 42, 43 46, 48, 49, 52, 62, 64, 65 , 66,67, 68, 69, 70, 74, 75, 76, 77 and 78 on Reference Plan No. 66R-30847 (the "Commercial/Retail Lands"); and THIRDLY Parts 26, 28 and 72 on Reference Plan No. 66R-30847 (the "City Lands"). The Condominium Lands and Commercial/Retail Lands are owned by the Developer and the City Lands are to be owned by the City upon title transfer.
<b>Actions</b>	<ol style="list-style-type: none"> <li>1. Authority is granted to enter into the MESF Agreement with the Developer, substantially on the terms and conditions outlined in Appendix "B", and on any other or amended terms and conditions deemed appropriate by the Deputy City Manager, Corporate Services, or her successor or designate, and in a form acceptable to the City Solicitor.</li> <li>2. The Deputy City Manager, Corporate Services, or her successor or designate, shall administer and manage the MESF Agreement, including the provision of any amendments, consents, certificates, approvals, waivers, notices, and notices of termination, provided that the Deputy City Manager may, at any time, refer consideration of such matters to City Council for its determination and direction.</li> <li>3. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.</li> </ol>
<b>Financial Impact</b>	<p>City will pay the City's proportionate share of Shared Facilities Costs as set out in Schedule "C" of the MESF Agreement. For the first ten (10) years following the execution of the MESF Agreement, the City shall pay an annual fee of \$9,000 in full satisfaction of the City's obligation of Shared Facilities Costs, which shall be adjusted accordingly based on the Consumer Price Index (Toronto).</p> <p>The Chief Financial Officer &amp; Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
<b>Comments</b>	The Developer has constructed a mixed-use condominium development on the lands municipally known as 5200 Yonge Street, and has entered into a Section 37 Agreement (the "S37 Agreement") with the City to deliver a social retail space (the "Space") on the ground floor of the development to the City as part of the Section 37 benefit. The Space is intended to be used for community based retail activities. To support the ongoing operation of the Space, the City and the Developer are to enter into the MESF Agreement, which manages the mutual easements granted by both City and the Developer, as well as outlines the City's obligation in ongoing Shared Facilities Costs.
<b>Terms</b>	See Appendix "B" for major terms and conditions of the MESF Agreement.

<b>Property Details</b>	<b>Ward:</b>	Ward 18 – Willowdale
	<b>Assessment Roll No.:</b>	
	<b>Approximate Size:</b>	~5,000 sq ft
	<b>Approximate Area:</b>	
	<b>Other Information:</b>	

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:	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> Issuance of RFPs/REOs.
4. Permanent Highway Closures:	<b>Delegated to a more senior position.</b>	<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:	<b>Delegated to a more senior position.</b>	<b>Delegated to a more senior position.</b>
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:	<b>Delegated to a more senior position.</b>	<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.
	<b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b>	<b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b>
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 checked="" type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million.
	<b>Delegated to a more senior position.</b>	<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:	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).
14. Miscellaneous:	<b>Delegated to a more senior position.</b>	<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.

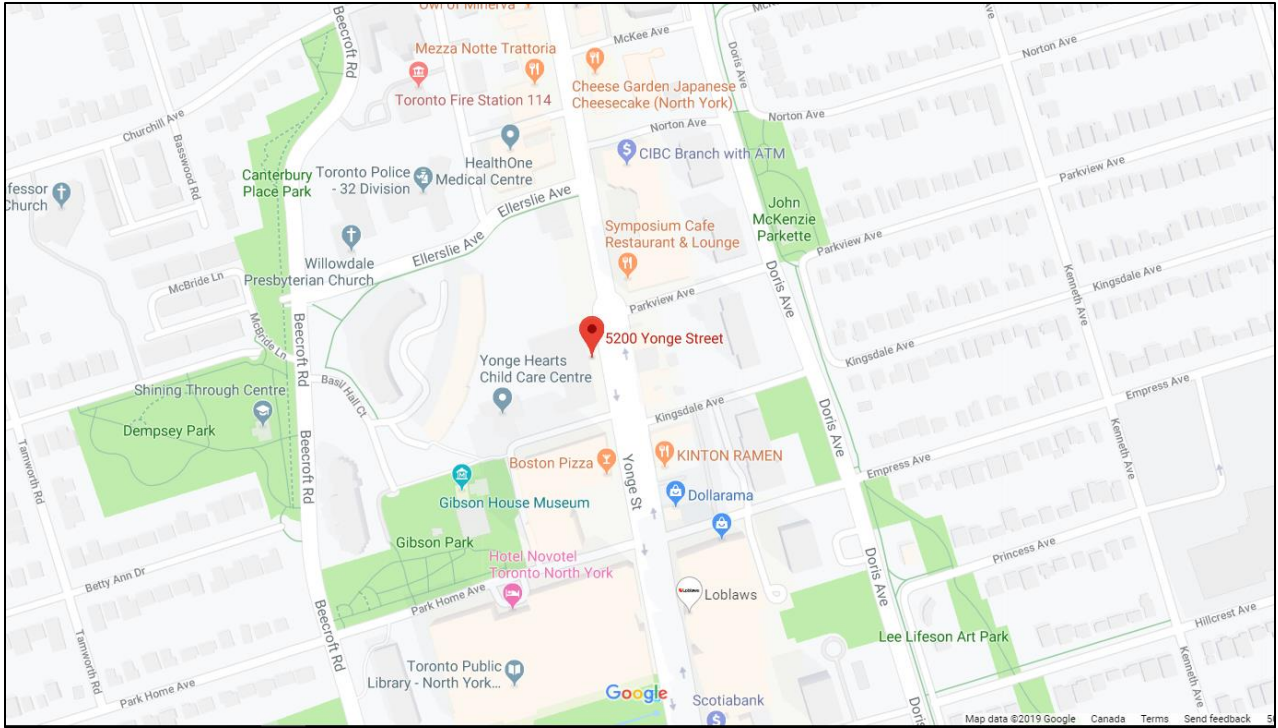
Consultation with Councillor(s)															
Councillor:	Councillor John Filion					Councillor:									
Contact Name:						Contact Name:									
Contacted by:	Phone	x	E-Mail		Memo	X	Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	No Objection (Sept 16, 2019)					Comments:									
Consultation with Divisions and/or Agencies															
Division:						Division:	Financial Planning								
Contact Name:						Contact Name:	Marie Barcellos								
Comments:						Comments:	(Aug 12, 2019)								
Legal Division Contact															
Contact Name:	Luxmen Aloysius (Sept 12, 2019)														

DAF Tracking No.: 2019- 193	Date	Signature
Concurred with by: Acting Manager, Real Estate Services Daran Somas	Sept. 17, 2019	Signed by Daran Somas
<input type="checkbox"/> Recommended by: Acting Manager, Real Estate Services <input checked="" type="checkbox"/> Approved by: Melanie Hale-Carter	Sept. 17, 2019	Signed by Melanie Hale-Carter
<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, 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 50M<sup>2</sup> 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 - Location Map



## Appendix B – Major Terms and Conditions

### Maintenance and Repair:

The City shall at all times maintain and keep all elements of the Space in good order and condition, as would a prudent owner and/or operator of such facilities at its sole cost and expense.

The Developer and subsequently the condominium corporation and the owner of the commercial facilities located within the condo building (the "Owner Corporations") shall at all times maintain and keep the condominium facilities and commercial facilities, respectively, in good order and condition, as would a prudent owner of such facilities and consistent with a first-class development in North Toronto at its sole cost and expense.

### Easements granted by City:

The City grants to the Owner Corporations:

- City corridor easement in, over, along, upon and through the City corridor for the purposes of pedestrian ingress and egress (granted to commercial space owner only)
- Access easement to the elevators, washrooms and other public areas
- General access easement for operation and maintenance of the Shared Servicing Systems as defined in the MESF Agreement
- Emergency access easement for emergency pedestrian egress purposes
- Fresh air intake and ventilation shafts easement
- Support easement in the nature of a right-of-support in and through all structural members, including, but not limited to, load bearing walls, pillars, etc.

### Easements in favour of City:

The Owner Corporations grant the City:

- Condominium ramps and driveways easements for vehicular and pedestrian ingress and egress
- Condominium walkways easement for pedestrian ingress and egress
- Pedestrian mews easement for passage and re-passage of pedestrians in, over, through the pedestrian mews
- General access easement for operation and maintenance of the Shared Servicing Systems as defined in the MESF Agreement
- Emergency access easement for emergency pedestrian egress purposes
- Fresh air intake and ventilation shafts easement
- Support easement in the nature of a right-of-support in and through all structural members, including, but not limited to, load bearing walls, pillars, etc.
- Commercial elevator and lobby easement for the purposes of pedestrian ingress and egress
- Commercial garbage room easement for pedestrian ingress and egress and vehicles moving garbage.
- Loading area easement for pedestrian and vehicular ingress and egress for the transport of goods and materials
- Commercial corridors and walkways easement for vehicular and pedestrian ingress and egress

### Shared Expenses and Operation:

City and the Owner Corporations agree to contribute proportionate share of the Shared Facilities Costs as set out in Schedule "C" of the MESF Agreement.

For a period of ten (10) years following the date of execution of the MESF Agreement, the City shall pay an annual fee of \$9,000, adjusted per CPI, as the total contribution of the City in full satisfaction of the City's proportionate share of the Shared Facilities Costs.

### Pedestrian Mews

The City shall have reasonable use of the Pedestrian Mews (forming part of the Condominium Lands) including, without limitation, uses for events, music staging, sponsorship booths, staging, market carts, moveable café style seating, spill-out space adjacent to the City Lands, and any other use associated with City's programming, all of which will be undertaken in compliance with the City's Noise By-Law.

### Insurance and Indemnity

The parties obligated to maintain with respect to each of their facilities appropriate insurance and agrees to release and indemnify each other from claims which may be incurred, sustained or paid by a party as a result of the breach of the other party of the MESF Agreement or the negligent act or omission or willful misconduct of such other party or its workers, contractors, employees or agents, save and except to the extent caused or contributed to by the negligent act or omission or willful misconduct of the injured party.

### Right of First Offer

The owner of the Commercial/Retail Lands shall have a right of first offer in the event that the City wishes to sell the City Lands to a third party that is not a government entity, including an agency, board, commission or non-arm's length corporation established by the City. In each such event, the City shall advise the owner of the Commercial/Retail Lands of the material terms of any such proposed offer and such owner shall be given five (5) Business Days to agree to enter into a purchase agreement on the proposed material terms, failing which, the City shall be free to sell the City Lands to third parties at a price that is no less than ninety percent (90%) of the offered price, without having to offer the owner of the Commercial/Retail Lands the opportunity to purchase the City Lands.