

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

TRACKING NO.: 2020-090

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, as adopted by City Council on May 22, 23 & 24, 2018 and Item GL9.14, as adopted by City Council on November 26 & 27, 2019 or, where applicable, contained in Item EX28.8, as adopted by City Council on November 7, 8 & 9, 2017.

Prepared By:	Rafael Gutierrez	Division:	Corporate Real Estate Management
Date Prepared:	March 27, 2020	Phone No.:	416-338-2995

Purpose	To obtain authority for the City of Toronto (the " City ") to enter into a Temporary Easement Amending Agreement with Enwave Energy Corporation (" Enwave ") (the " Amending Agreement "), to amend the scope of the temporary tunnel work within an existing shaft and tunnel system that is required by Enwave for accessing its infrastructure lying adjacent to the City-owned lands.
Property	The City-owned lands which are to be subject to the temporary easement comprise an area of approximately 765 square meters and are generally located at the south end of Van de Water Crescent, west of the John Street Pumping Station (" JSPS ") building and north of Lake Shore Blvd West, municipally known as 28 Rees Street, Toronto (the " Temporary Easement Lands "). A portion of the Temporary Easement Lands is located under the south-westerly corner of the JSPS building. The location of the Temporary Easement Lands is shown in the Sketch in Appendix "A".
Actions	<ol style="list-style-type: none"> Authority is granted to enter into an Amending Agreement with Enwave, on terms and conditions outlined herein and in a form acceptable to the City Solicitor. The Director, Real Estate Services shall administer and manage the Temporary Easement Extension Agreement, including the provision of any amendments, consents, approvals, waivers, notices and notices of termination provided that the Director, Real Estate Services may, at any time, refer consideration of such matter (including their content) to City Council for its determination and direction. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.
Financial Impact	<p>There is no financial impact resulting from this approval.</p> <p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>In 2013, Enwave requested the temporary easement as part of a project to bring a new heating/cooling pipeline system to customers located near Harbour Street at York Street. The City and Enwave entered into an agreement relating to the same on November 1, 2013, which expired on October 31, 2016 (the "Original Easement Agreement"). DAF No. 2013-228 authorized the Original Easement Agreement, with annual net revenue of \$38,500.00 plus HST to the City.</p> <p>In 2017, the City and Enwave entered into a Temporary Easement Extension Agreement commencing on November 1, 2016, which expired on October 31, 2019 (the "2017 Temporary Easement Extension Agreement"). DAF No. 2017-189 authorized the 2017 Temporary Easement Extension Agreement, with annual net revenue of \$113,700.00 plus HST to the City.</p> <p>In 2020, the City and Enwave entered into a Temporary Easement Extension Agreement commencing on November 1, 2019, and expiring on October 31, 2020, with an option to extend for a further three (3) years (the "2020 Temporary Easement Extension Agreement"). DAF No. 2020-064 authorized the 2020 Temporary Easement Extension Agreement, with annual net revenue of \$120,000.00 plus HST to the City.</p> <p>As part of Enwave's fourth (4th) intake tunnel project, Enwave needs to drill a borehole to test the ground conditions below the existing shaft elevation. Consequently, the definition of "Temporary Tunnel Work" defined in Schedule D to Original Easement Agreement, must be amended.</p>
Terms	See Appendix "A".

Property Details	Ward:	10 – Spadina-Fort York
	Assessment Roll No.:	19 04 062 061 005 00
	Approximate Size:	N/A
	Approximate Area:	765 m ² (8,234.4 ft ²)
	Other Information:	N/A

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/REOIs:</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 more senior positions.</p> <p>Delegated to more senior positions.</p> <p>Delegated to more senior positions.</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 more senior positions.</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 type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$50,000.</p> <p><input checked="" type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to more senior positions.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to more senior positions.</p> <p>Delegated to more senior positions.</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/REOIs.</p> <p><input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.</p> <p>Delegated to more senior positions.</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 the Deputy City Manager, Corporate Services and any related documents.

Consultation with Councillor(s)															
Councillor:	Joe Cressy				Councillor:										
Contact Name:	Bushra Mir				Contact Name:										
Contacted by:	Phone	X	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	Concurs (March 24, 2020)				Comments:										
Consultation with Divisions and/or Agencies															
Division:	Toronto Water				Division:	Financial Planning									
Contact Name:	Mike Brannon				Contact Name:	Filisha Jenkins									
Comments:	Concurs (March 27, 2020)				Comments:	Concurs (March 25, 2020)									
Legal Division Contact															
Contact Name:	Luxmen Aloysius/Aiden Alexio														

DAF Tracking No.: 2020-090	Date	Signature
Concurred with by: Manager, Real Estate Services, Alex Schuler	March 30 th , 2020	Signed By: Alex Schuler
<input type="checkbox"/> Recommended by: Manager, Real Estate Services <input checked="" type="checkbox"/> Approved by: Daran Somas	April 9 th , 2020	Signed By: Daran Somas
<input type="checkbox"/> Approved by: Director, Real Estate Services Alison Folosea		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 market value and no interest shall be granted for an amount less than the appraised market value, nor additional compensation paid, unless specifically authorized by City Council.
- (f) Authority to approve any transaction 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, Temporary Easement Lands, Drawings

Transferor:

City of Toronto (the "**City**")

Transferee:

Enwave Energy Corporation ("**Enwave**")

Temporary Easement Lands:

South end of Van de Water Crescent, west of the John Street Pumping Station ("**JSPS**") building and north of Lake Shore Blvd West (the "**Temporary Easement Lands**"). A portion of the Temporary Easement Lands is located under the south-westerly corner of the JSPS building.

Amendment:

The Temporary Easement Agreement is hereby amended by adding the following as Section 1.1(C(i)) after Section 1.1 (C) in the Original Easement Agreement:

(C(i)) The drilling of a borehole at the shaft base elevation of 50m, approximately 26m below grade, and extending to an elevation of -10m for a total additional depth of 60m from the existing shaft depth. The approximate diameter of the borehole will be 100 millimeters.

Borehole:

Upon completion of drilling, a monitoring well will be installed in the borehole. The installation is expected to start on May 4th, 2020, and completed by the end of July 2020. Enwave will monitor the well for approximately six (6) months after the installation date. The borehole will be decommissioned within one (1) year upon execution of the Amending Agreement.

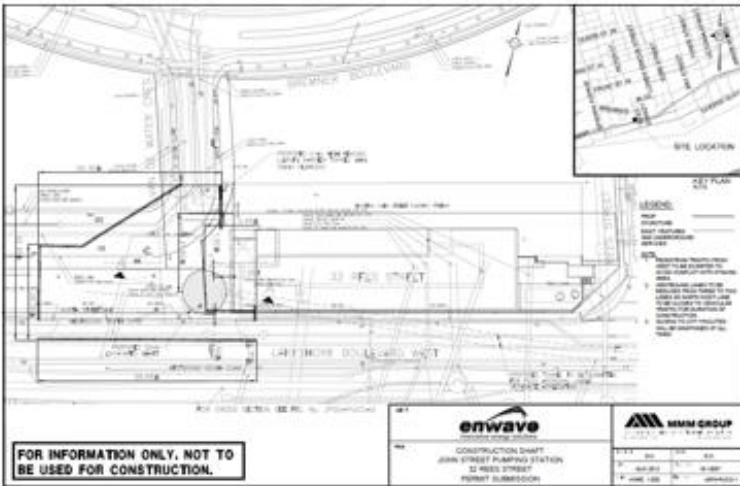
Aerial Shot



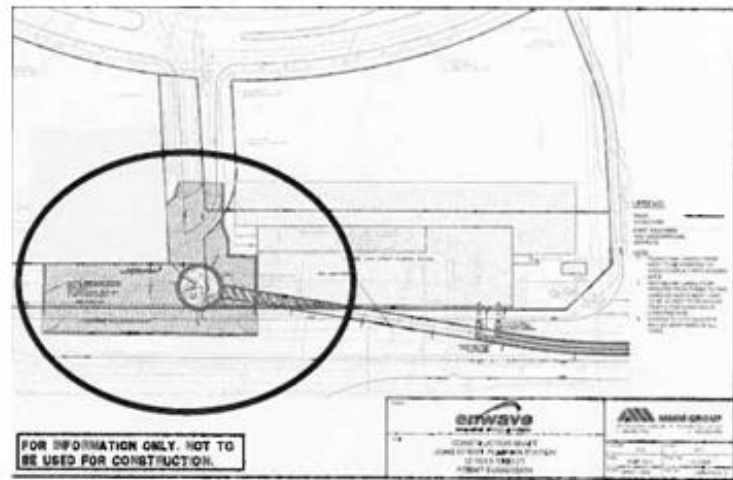
Map



Drawing 1



Drawing 2



Borehole GH101



Figure 1 - JSPS BH G101 for Enwave 4th Intake Tunnel Project