

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

TRACKING NO.: 2020-069

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:	Bruno Iozzo	Division:	Corporate Real Estate Management
Date Prepared:	March 4, 2020	Phone No.:	(416) 392-8151

Purpose	To obtain authority to acquire a permanent stratified easement in gross (the "Easement") from Metrolinx for the purpose of constructing and operating a below ground 1.5 metre diameter "4SPK" adit tunnel for the storage and conveyance of combined sewer overflows as part of the City's Don River & Central Waterfront Wet Weather Flow System Project (the "Project").
Property	Part of Lot 15 Concession 1 FTB (Township of York), Part of the Esplanade or Highway, Don Improvement Plan Toronto, Designated as Parts 10-16, inclusive, on Plan 66R-24377, PIN 21068-0090). The Easement will run beneath that portion of the Property designated as Parts 1-4 on Plan 66R-31197 attached hereto as Appendix "B" (the "Easement Lands").
Actions	<ol style="list-style-type: none"> 1. Authority be granted for the City to acquire the Easement on the terms and conditions set out in Appendix "A" together with such other terms and conditions as may be satisfactory to the Deputy City Manager, Corporate Services (the "DCM") and in a form acceptable to the City Solicitor. 2. The Executive Director of Corporate Real Estate Management (the "EDCREM") or their designate shall administer and manage the Easement, including the provision of any consents, approvals, waivers and notices including notices of termination provided that the EDCREM or their designate may, at any time, refer consideration of such matter (including their content) to City Council for its determination and direction.
Financial Impact	<p>Metrolinx has agreed to transfer the Easement to the City for nominal consideration. The City will however incur a cost of approximately \$100.00 for the registration fees associated with the Easement.</p> <p>Funding for this cost is available in the 2020-2029 Council Approved Capital Budget and Plan for Toronto Water under account number CWW480-01.</p> <p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>The Project is a multi-stage endeavor overseen by staff within the City's Engineering and Construction Services Division on behalf of the Toronto Water Division. The initial stage consists of the Coxwell Bypass Tunnel, being a tunnel of approximately 10.6 kilometers in length, bored at a depth of approximately 50 meters below the surface and connected by a series of vertical storage shafts and horizontal adit tunnels. The 4SPK adit tunnel originates in a shaft to be built within Riverdale Park and will run beneath the DVP, the Don River and the Property, before connecting into the Bypass Tunnel. Once operational, the system will act as a bypass for the Coxwell Sanitary Trunk Sewer to capture, store and convey combined sewer overflows.</p> <p>Delegated Approval Form No.: 2018-330, as amended by Delegated Approval Form No. 2019-016, authorized City staff to acquire eleven (11) permanent easements from Metrolinx for the Coxwell Bypass Tunnel into which the 4SPK adit tunnel will connect.</p>
Terms	Please see Appendix "A".

Property Details	Ward:	14 – Toronto-Danforth
	Assessment Roll No.:	19 04 075 990 050 00
	Approximate Size:	N/A
	Approximate Area:	270.8 m 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/REOs:</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 type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to more senior positions.</p> <p><input checked="" 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/REOs.</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:		
<ul style="list-style-type: none"> 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:		
<ul style="list-style-type: none"> 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:	Paula Fletcher					Councillor:			
Contact Name:	Susan Serran – Executive Assistant					Contact Name:			
Contacted by:	Phone	X	E-Mail		Memo		Other		
Comments:	No objections (March 11, 2020)					Comments:			
Consultation with Divisions and/or Agencies									
Division:	Engineering & Construction Services					Division:	Financial Planning		
Contact Name:	Robert Mayberry					Contact Name:	Marie Barcellos		
Comments:	Revision included (March 6, 2020)					Comments:	Revisions included (March 9, 2020)		
Legal Division Contact									
Contact Name:	Jennifer Davidson / Catherine Thomas (March 5, 2020)								

DAF Tracking No.: 2020-069	Date	Signature
Concurred with by: Manager, Corporate Real Estate Management Peter Cheng	Mar. 12, 2020	Signed by Peter Cheng
<input type="checkbox"/> Recommended by: Manager, Corporate Real Estate Management <input checked="" type="checkbox"/> Approved by: Alex Schuler	Mar. 12, 2020	Signed by Alex Schuler
<input type="checkbox"/> Approved by: Acting Director, Corporate Real Estate Management 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 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" – Terms and Conditions

Project

Don River and Central Waterfront Wet Weather Flow System Project

Permanent Easement Lands

Part of Lot 15 Concession 1 FTB (Township of York), Part of the Esplanade or Highway, Don Improvement Plan Toronto, Designated as Parts 10-16, inclusive, on Plan 66R-24377 (Part of PIN 21068-0090) and designated as Parts 1-4 on Plan 66R-31197 attached hereto as Appendix "B".

Easement Costs

Registration Costs of approximately \$100.00

Dominant Lands

N/A as this is an easement in gross pursuant to section 72 of the *City of Toronto Act, 2006*, S.O. 2006, c. 11,

Works

an underground adit tunnel constructed by tunnel excavation methods through native bedrock for the storage and conveyance of storm water, sanitary sewage, and/or a combination of the two that connects into the Coxwell Bypass Tunnel and includes, but is not limited to, any and all tunnel works including Appurtenances, improvements and services or any of them

Permanent Easement Rights

To enter, access, pass and re-pass for ingress and egress In/Under/Through the Permanent Easement Lands at any time or times, in any manner, including but not limited to on foot and with vehicles, equipment, gear, apparatus, machinery, tools, supplies, and materials. For greater clarity, it is intended that the Works shall be constructed using tunnelling boring equipment and other underground excavation equipment; and

To take proactive and remedial measures to prevent and correct any circumstance or condition that is having or could have the effect of interfering with or derogating from the attainment of such purposes, including measures to: (1) remove from the Permanent Easement Lands any natural obstructions, including soil, boulders, rocks, accumulations; and (2) secure and protect the Works from hazard.

Key City Covenants

Construct Works in accordance with approved plans and specifications, provide Metrolinx with copy of as-constructed drawings upon completion and maintain in good state of repair at all times.

Operate the Works in manner that does not adversely affect Metrolinx's rail corridors.

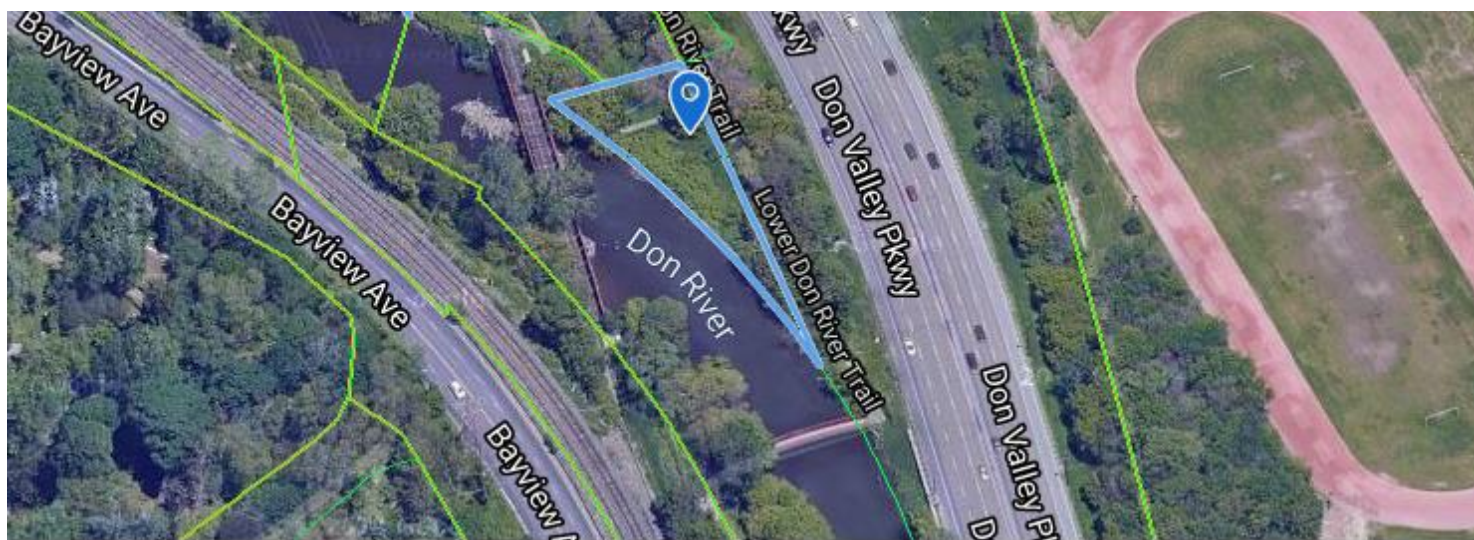
If the City fails to fulfil its obligations, Transferor may cure the default at the City's expense or, in the event of a material default that is not cured within reasonable period of time, terminate the Easement upon 24 month notice.

Indemnity:

The City covenants and agrees that it shall indemnify and hold harmless Metrolinx and its directors, officers, employees, permittees, licensees, consultants, contractors, subcontractors and agents (collectively, the "Indemnified Persons") from and against any and all claims, including, without limitation, claims for any damage to property and/or buildings, improvements, property, fixtures or chattels located thereon and any personal injury or death, suits, demands, costs, losses, expenses and damages suffered or incurred by the Indemnified Persons provided that this indemnity shall not extend to any negligence or other tortious acts or omissions or wilful misconduct by any of the Indemnified Persons. This section shall survive the registration, termination, release or abandonment of any Permanent Easement Rights.

Insurance:

City must at all times maintain Commercial General Liability insurance with limits not less than 10 Million Dollars, Automobile Liability Insurance with limit no less than 5 Million Dollars, Contractors' Equipment Insurance and Pollution Liability Insurance of 10 Million during construction and 2 Million at all other times.



Stratified Reference Plan 66R-31197 (Permanent Easement on Parts 1-4)

