

**DELEGATED APPROVAL FORM**  
**DEPUTY CITY MANAGER, CORPORATE SERVICES**  
**EXECUTIVE DIRECTOR, CORPORATE REAL ESTATE MANAGEMENT**

TRACKING NO.: 2020-071

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:	Leila Valenzuela	Division:	Corporate Real Estate Management
Date Prepared:	March 9, 2020	Phone No.:	(416) 392-7174

<b>Purpose</b>	To obtain authority to enter into a Licence Agreement with Metrolinx (the "Licensee") with respect to the property municipally known as 150-170 Queens Wharf Road, and part of Fort York Lands at 100 Garrison Street, portions of Bathurst Street and lands under the Gardiner Expressway, Toronto for the purpose of construction staging and laydown, and access to rail corridor (the "Licence Agreement").
<b>Property</b>	The licensed premises (collectively, the "Licensed Premises") are described as follows and shown on Appendix "B":  <ol style="list-style-type: none"> <li>Licensed Premises 1 – Future Mouth of the Creek parkland, municipally known as 150-170 Queens Wharf Road, Toronto, legally described as Part of Lot 20 on Index Plan D-970, being Parts 4 &amp; 9 on Plan 66R-26042, also designated as Parts 1 and 2 on Stratified Reference Plan 66R-30890, City of Toronto, being all of PIN 21394-0212 (LT) and PIN 21394-0215 (LT);</li> <li>Licensed Premises 2 - Lands under and adjacent to Gardiner Expressway, west of Bathurst Street, designated as Parts 5, 6, 7 and 8 on Stratified Reference Plan 66R-30890, City of Toronto, being part of PIN 21241-0241(LT); and</li> <li>Licensed Premises 3 - Part of Bathurst Street, south of the rail corridor, designated as Part 3 on Stratified Reference Plan 66R-30890, being part of PIN 21394-0043(LT); and part of Fort York lands at 100 Garrison Road, designated as Part 4 on Stratified Reference Plan 66R-30890, being part of PIN 21241-0241(LT).</li> </ol>
<b>Actions</b>	<ol style="list-style-type: none"> <li>Authority be granted to enter into the Licence Agreement with the Metrolinx, substantially on the major terms and conditions set out in Appendix "A", and including such other terms as deemed appropriate by the approving authority herein, and in a form satisfactory to the City Solicitor.</li> </ol>
<b>Financial Impact</b>	Total revenues to the City resulting from the full term of the licence agreement for all three licensed premises is \$2,901,818 (exclusive of HST) based on a rate of \$5.50 per square foot. Assuming the licence is extended up to a maximum of six (6) months, with respect to Licensed Premises 1, the total additional licence fee revenue to the City would be \$79,812.43 (exclusive of HST). The grand total revenues to be received by the City (including 6 months extension) is \$2,981,630.43 (exclusive of HST) or \$3,034,107.13 (including non-recoverable HST).  The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.
<b>Comments</b>	Metrolinx require the Licensed Premises to facilitate the construction of GO Expansion Platform Widening and Concourse Project at Union Station. Licensed Premises 1 is required for construction staging and laydown area. Licensed Premises 2 & 3 are required for access for ingress/egress to the rail corridor and Licensed Premises 1, as well as to store materials but will not interfere with the public areas.  City advised that Licensed Premises 2 & 3 will not be available until July 1, 2021 due to the Bathurst Street Bridge rehabilitation work on these premises, and as such, access to Licensed Premises 1 will be via Queens Wharf Road / Dan Leckie Way through a road occupancy permit.  Transportation Services, as the Gardiner asset owner, agree to allow Metrolinx the use of Licensed Premises 2 (lands under and adjacent to the Gardiner) until May 31, 2025 on the basis that the City will have access to this area upon prior notice to Metrolinx for emergency repairs  The proposed Licence Fee and other major terms and conditions of the Licence Agreement are considered to be fair, reasonable and reflective of market rates. Staff of Parks, Forestry & Recreation, Economic Development and Culture Division, Transportation Services and Transit Expansion Office have been consulted with respect to the grant of this Licence Agreement.
<b>Terms</b>	See Appendix "A".

<b>Property Details</b>	<b>Ward:</b>	10 – Spadina-Fort York
	<b>Assessment Roll No.:</b>	Licensed Premises 1: 190406205400115 & 190406205400118; Licensed Premises 2 & 3: Not assessed
	<b>Approximate Area:</b>	Licensed Premises 1: 58,045.41 sf; Licensed Premises 2: 13,286.96 sf; and Licensed Premises 3: 49,099.53 sf

A.	Executive Director, Corporate Real Estate Management has approval authority for:	Deputy City Manager, Corporate 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 &amp; Parks &amp; 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 \$3 Million.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$3 Million.</p> <p><input type="checkbox"/> Issuance of RFPs/REOs.</p> <p><input type="checkbox"/> Initiate process &amp; authorize GM, Transportation Services to give notice of proposed by-law.</p> <p><input type="checkbox"/> Transfer of Operational Management to Divisions and Agencies.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$3 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$3 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 \$3 Million.</p> <p><input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding twelve (12) months, including licences for environmental assessments and/or testing, etc.</p> <p><b>Delegated to a more senior position.</b></p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$3 Million.</p> <p><input type="checkbox"/> (a) Where total compensation does not exceed \$3 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 \$3 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/Cautions</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>	<p><input type="checkbox"/> Where total compensation does not exceed \$5 Million.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$5 Million.</p> <p><input type="checkbox"/> Issuance of RFPs/REOs.</p> <p><input type="checkbox"/> Initiate process &amp; authorize GM, Transportation Services to give notice of proposed by-law.</p> <p><input type="checkbox"/> Transfer of Operational Management to Divisions and Agencies.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 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 checked="" type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$5 Million.</p> <p><input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding twelve (12) months, including licences for environmental assessments and/or testing, etc.</p> <p><input type="checkbox"/> (c) Where compensation is less than market value, provided tenant and lease satisfy Community Space Tenancy Policy criteria set out in Item EX28.8, as adopted by Council on November 7, 8 and 9, 2017.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$5 Million.</p> <p><input type="checkbox"/> (a) Where total compensation does not exceed \$5 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 \$5 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/Cautions</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. Deputy City Manager, Corporate Services and Executive Director, Corporate Real Estate Management 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.
  - Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.
  - Expropriation Applications and Notices following Council approval of expropriation.

Consultation with Councillor(s)										
Councillor:	Councillor Cressy				Councillor:					
Contact Name:	Brent Gilliard				Contact Name:					
Contacted by:	Phone	X	E-Mail	Memo	Other	Contacted by:	Phone	E-mail	Memo	Other
Comments:	No concern. MX to ensure they arrange for construction management/communications plan to help mitigate local issues. (12/24/2019)				Comments:					
Consultation with Divisions and/or Agencies										
Division:	PF&R, EDC, ECS, Transportation Services, TEO				Division:	Financial Planning				
Contact Name:	B. Duguid, J. Pynn, J. Atkins, G. Tom, J. Murnaghan				Contact Name:	Filisha Jenkins				
Comments:	All have been notified (03/09/2020)				Comments:	Comments have been incorporated (12/19/2019)				
Legal Division Contact										
Contact Name:	Lisa Davies (03/09/2020)									

DAF Tracking No.: 2020-071	Date	Signature
Recommended by: Manager, Real Estate Services	Mar. 10, 2020	Signed by Melanie Hale-Carter
Recommended by: Director, Real Estate Services	Mar. 10, 2020	Signed by Nick Simos
<input type="checkbox"/> Recommended by: Executive Director, Corporate Real Estate Management <input type="checkbox"/> Approved by: Patrick Matozzo	Mar. 11, 2020	Signed by Patrick Matozzo
<input type="checkbox"/> Approved by: City Manager, Chris Murray	Mar. 11, 2020	Signed by Chris Murray

**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 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"

### Major Terms and Conditions

Licensor: City of Toronto

Licensee: Metrolinx

	<u>Licensed Premises 1</u>	<u>Licensed Premises 2</u>	<u>Licensed Premises 3</u>
Property Description:	Future Mouth of the Creek parkland, municipally known as 150-170 Queens Wharf Road	Lands under and adjacent to Gardiner Expressway, west of Bathurst Street	Part of Bathurst Street (under Bathurst St. bridge), south of the rail corridor
Use:	Construction staging and laydown area	Storage and access for ingress/egress to the rail corridor and Licensed Premises 1 & 3	Storage and access for ingress/egress to the rail corridor and Licensed Premises 1
Licensed Area:	5,392.6 m <sup>2</sup> (58,045.41 ft <sup>2</sup> )	1,234.4 m <sup>2</sup> (13,287 ft <sup>2</sup> )	4,561.5 m <sup>2</sup> (49,099.53 ft <sup>2</sup> )
Term:	See below start & expiry dates	3 years and 11 months	3 years and 11 months
Start Date:	The later of (a) Amended Certificate of Property Use; and (b) upon notice to the City which shall not be: (i) less than thirty (30) days after the date of the Notice; and (ii) earlier than July 15, 2020	July 1, 2021	July 1, 2021
Expiry Date:	May 31, 2025	expiring May 31, 2025, or earlier	expiring May 31, 2025
Extension:	Month-to-month up to maximum of 6 months	No extension	No extension
Licence Fee:	During the term: \$5.50 per ft <sup>2</sup> per year; or \$319,249.74 per year.  During the extension: \$26,604.00 per month plus HST (on the basis of \$5.50 per sf per annum)	On the basis of \$5.50 per ft <sup>2</sup> per year; or \$73,078.28 per year	On the basis of \$5.50 per ft <sup>2</sup> per year; or \$270,047.42 per year
Reduced Licence Fee	If the Term is extended to perform restoration/remediation of Licensed Premises 1, then the Licence Fee shall be based on the Reduced Licence Fee calculation of \$2.75 per square foot per annum	n/a	n/a
Other fees / taxes:	The Licensee is responsible for all applicable realty taxes, operating and utility costs during the Term	The Licensee is responsible for all applicable realty taxes, operating and utility costs during the Term	The Licensee is responsible for all applicable realty taxes, operating and utility costs during the Term
Early Termination:	Licensee has the right to terminate upon no less than 30 days prior written notice to the City	Licensee has the right to terminate upon no less than 30 days prior written notice to the City	Licensee has the right to terminate upon no less than 30 days prior written notice to the City
Road Occupancy Permit	The Licensee shall obtain a Road Occupancy Permit for the use of Queen's Wharf Road	If required, the Licensee shall obtain a Road Occupancy Permit for the use of Licensed Premises 2.	n/a
Emergency Repairs	n/a	The Licensee shall allow the City access to Licensed Premises 2 and 3, on prior written notice to the Licensee, or if prior notice is not feasible, then as soon as possible following the City's access, for the purpose of any emergency repairs required to the Bathurst Street Bridge and Gardiner Expressway. The City shall comply with all rules imposed by the Licensee or the Licensee Representatives in respect of the Licensed Premises 2 and/or Licensed Premises 3.	
Environmental Conditions	The Licensee covenants to abide by the conditions set out in the Record of Site Condition, the existing or the amended Certificate of Property Use for Licence Premises 1.	The Licensee shall conduct pre and post environmental due diligence testing and investigations to establish baseline soil condition, and to determine whether there has been an adverse change to the environmental condition of Licensed Premises 1, 2 & 3.	
Insurance:	The Licensee shall obtain, maintain, and add the City as additional insured: - Commercial General Liability with limits not less than \$10 Million per occurrence, and the City be as additional in - Automobile Liability insurance with a limit not less than \$5 Million per accident; - Contractor's Equipment insurance - Pollution Liability insurance with a limit not less than \$5 Million		
Indemnification:	The Licensee releases, indemnify and save harmless the City of and from any and all manner of Claims, made or brought against, suffered by or imposed on the City, or their property, in respect of any loss, damage or injury (including property damage, personal injury, bodily injury and death) to any person or directly arising out of or directly resulting from or directly sustained as a direct result of the occupation or use of the Licensed Premises 1, 2 & 3.		

Restoration / Remediation	Upon expiry or termination of the Licence, the Licensee shall restore and return Licensed Premises 1, 2 & 3 to the same condition prior to the occupation by the Licensee or in condition satisfactory to the City, acting reasonably, including the remediation and restoration work in order to return Licensed Premises 1 to the same environmental condition prior to the commencement date.
Other	<p>The Licensee shall not commence operation of the Licensee's Use until: (i) all approvals, licences and permits required by Applicable Laws; and (ii) all approvals, licences and permits identified in the Agreement (only to the extent they are applicable to the Licensee's Use), have been obtained by or on behalf of the Licensee.</p> <p>Licensed Premises 2: The Licensee shall not cause a material and unreasonable interference with the public use of the public portion(s) of Licensed Premises 2 except that it is understood and agreed by the City that the Licensee shall have the right to temporarily interrupt the public's use of the public areas on an intermittent basis from time to time to permit the safe passage of vehicles, persons and/or equipment by the Licensee through the public areas.</p> <p>Prior to Commencement of the Term of Licensed Premises 2, the City shall obtain from The Bentway to consent to the Licensee's use of the Licenses Premises 2.</p>

Appendix "B"

Location Map and Sketch

