

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

**TRACKING NO.: 2020-101**

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:	Jack Harvey	Division:	Corporate Real Estate Management
Date Prepared:	June 9, 2020	Phone No.:	(416) 397-7704

<b>Purpose</b>	To obtain authority to enter into a licence agreement (the "Agreement") with Harbourfront Corporation (the "Licensor" or the "Tenant") to allow for a capital repair of an existing city-owned water tunnel which is located beneath the leased property.
<b>Property</b>	318 Queens Quay West, Toronto, ON Being all the lands and premises within PIN 21419-0005(LT)
<b>Actions</b>	Authority be granted to enter into the Agreement with the Licensor, substantially on the major terms and conditions set out in Appendix "A" hereto, and including such other terms deemed appropriate by the approving authority herein, and in a form satisfactory to the City Solicitor.
<b>Financial Impact</b>	The total cost to the City for the entire term of the Agreement, including the extension period, is \$628,876.80 (net of HST recoveries). Funding is available in the 2020-2029 Council Approved Capital Budget and Plan for Toronto Water under capital account CPW064-26.  The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.
<b>Comments</b>	The City is the registered owner of the Property. The City and the Tenant entered into a lease agreement on November 19, 1996 thereby granting the Tenant exclusive possession of the Property for use as a surface parking lot. The Tenant and the City agreed to amend and extend the lease on April 1, 2001. The lease has been in over-hold since March 31, 2006 and the Licensor remains in possession of the Property. There is a City-owned 2,400 mm horseshoe shape tunnel to convey treated water located beneath the Property that is in need of capital repair. As the parties do not wish to terminate the lease at this time and the lease did not reserve sufficient access rights to the City, the parties have agreed to enter into the Agreement to provide the City access to 3,064.3 square meters of the Property for the purpose of the repairing the Tunnel and performing any incidental work.  CREM confirms the lease is in good standing and recommends the Licence agreement be approved.
<b>Terms</b>	As per Appendix "A" – Page 4.

<b>Property Details</b>	<b>Ward:</b>	10 Spadina-Fort York
	<b>Assessment Roll No.:</b>	n/a
	<b>Approximate Size:</b>	n/a
	<b>Approximate Area:</b>	3,064.3 square meters
	<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/REOIs:	<b>Delegated to more senior positions.</b>	<input type="checkbox"/> Issuance of RFPs/REOIs.
4. Permanent Highway Closures:	<b>Delegated to more senior positions.</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 more senior positions.</b>	<b>Delegated to more senior positions.</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 more senior positions.</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"/> (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"/> (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 six (6) months, including licences for environmental assessments and/or testing, etc.
10. Leases/Licences (City as Tenant/Licensee):	<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>
11. Easements (City as Grantor):	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$50,000. <input type="checkbox"/> Where total compensation does not exceed \$50,000. <b>Delegated to more senior positions.</b>	<input checked="" type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million. <input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million. <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:	<b>Delegated to more senior positions.</b>	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).
14. Miscellaneous:	<b>Delegated to more senior positions.</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 the Deputy City Manager, Corporate Services and any related documents.

Consultation with Councillor(s)															
Councillor:	Joe Cressy					Councillor:									
Contact Name:	Tom Davidson					Contact Name:									
Contacted by:	Phone	X	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	Approved – June 9, 2020					Comments:									
Consultation with Divisions and/or Agencies															
Division:	Engineering & Construction Services					Division:	Financial Planning								
Contact Name:	Prapan Dave / Niko Kalo					Contact Name:	Felisha Jenkins								
Comments:	Approved					Comments:	Approved - April 24/20								
Legal Division Contact															
Contact Name:	Catherine Thomas														

DAF Tracking No.: 2020-101	Date	Signature
Concurred with by: Manager, Real Estate Services		X
<input checked="" type="checkbox"/> Recommended by: Manager, Real Estate Services Alex Schuler	June 12, 2020	Signed by Alex Schuler
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Director, Real Estate Services Alison Folosea	July 2, 2020	Signed by Alison Folosea

#### 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:** Harbourfront Corporation

**Address:** 318 Queens Quay West

**Term:** Commencing September 1, 2020 and ending June 30, 2021

**Option to Extend:** Two months – Commencing July 1, 2021 and ending August 31, 2021

**Licensed Area:** The 3,064.3 square meters outlined in red on the sketch attached hereto as Appendix "B"

**Licence Fee:** for the entire term including the two month extension, if applicable, is \$618,000. Plus HST

**Right to Terminate:** City shall have the right to terminate the Licence upon giving one (1) month written notice

**Other Major Terms and Conditions:**

(a) The City acknowledges and agrees that the Licensed Area is licensed in its "as is" condition and shall be entered upon, accessed and used by the City only for the purpose of the repairing the Tunnel and performing any work incidental thereto which both parties acknowledge shall at minimum include:

- erecting hoarding around the perimeter of the Licensed Area;
- constructing and operating an access gate along Lakeshore Boulevard West;
- installing a temporary shaft for access into the Tunnel;
- repairing the Tunnel;
- operating a crane;
- storing materials, including excavated soil;
- storing construction machinery and equipment, including site trailers;
- constructing a new maintenance hole at the shaft location;
- restoring the parking lot.

(b) it shall carry out the Work at the City's sole expense;

(c) it shall maintain the Licensed Area, at its sole cost and expense, in a clean and orderly condition except as required to carry out the Work;

(d) it shall use reasonable efforts not to interfere with the Licensor's continuing access to and use of the balance of the Property as a parking lot, and it will use reasonable efforts to minimize disturbance to the normal usage of any adjoining property; and

(e) it shall comply, at its sole expense, with all Federal, Provincial and Municipal laws, by-laws, rules, codes and regulations affecting the Licensed Area and/or its operation and use by the City and those authorized by or under the City, and shall obtain any necessary permits and licences that may be required for the City's intended use of the Licensed Area.

**Restoration:**

(1) Upon expiry or termination of this *Licence* for any reason whatsoever, the City shall, at its sole cost and expense, remove all fencing, materials, soils, equipment and debris it brought upon the Licensed Area in connection with this *Licence*, and shall repave the Licensed Area and paint new parking lines in order to return the Licensed Area as close as is practicable to its condition immediately on the Commencement Date.

(2) The City plans to install a steel maintenance cover flush to grade immediately over the shaft as part of the Works and the parties acknowledge and agree that said cover will be permitted to remain on the *Property* indefinitely and shall not be removed as part of the site restoration.

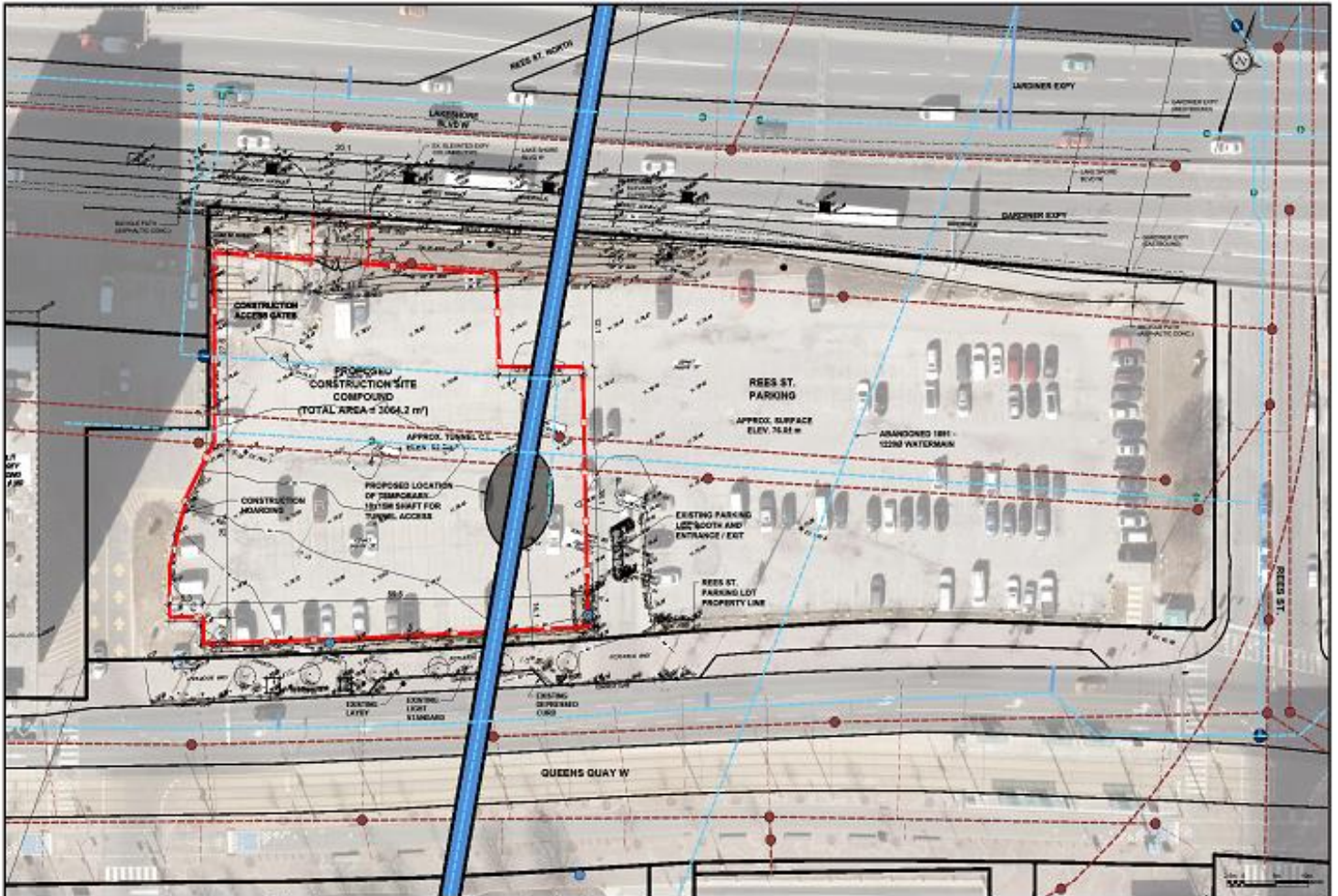
**Release and Indemnify:**

(1) The City shall indemnify and save the Licensor harmless from and against costs, expenses, claims, and demands brought against the Licensor in respect of loss, damage or injury to persons or property, arising directly out of the carrying out of the Work upon the Licensed Area by the City and its *Representatives* during the Term, except to the extent caused and/or contributed to by the negligence or wilful misconduct of the Licensor.

(2) Upon removal and restoration of the Licensed Area, the City shall be fully released from any liability relating to the Licence, this Agreement and the Work.

**(3)** The parties acknowledge and agree that the Licensor's obligation to indemnify the City as set out in section 4 of the Original Lease remains in full force and effect throughout the duration of the Term.

### Appendix "B" - LICENCED AREA 318 Queens Quay West



R.V. Anderson Associates Limited Engineering & Construction Services		<table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>REVISIONS</th> <th>MTHL</th> <th>SEAL</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DATE	REVISIONS	MTHL	SEAL							ENGINEERING & CONSTRUCTION SERVICES LLOYD GILCHRIST SENIOR ENGINEER (PROVIDED AS PART OF THE PROFESSIONAL SERVICES)		WILLIAM HUNTER, P.Eng. SENIOR ENGINEER (PROVIDED AS PART OF THE PROFESSIONAL SERVICES)		TREATED WATER MAIN - ISLAND WTP TO JOHN ST. PS WATER MAIN REHABILITATION PROPOSED REES ST. PARKING LOT SHIFT CIVIL		
			NO.	DATE	REVISIONS	MTHL	SEAL													
DESIGN: SC SCALE: As Shown DATE: October 11, 2019	DRAFTING: RM CHECK: TR DRAWING NUMBER: 19-7052	CONTRACT NO.: G401-F																		