

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

TRACKING NO.: 2020-143

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:	Rutvik Pandya	Division:	Corporate Real Estate Management
Date Prepared:	Feb 19, 2020	Phone No.:	416-338-5812

Purpose	To obtain authority to enter into a three (3) year licence agreement (the "Agreement") with 2470347 Ontario Inc. c.o.b. as Galleria Developments(the "Licensor") for use of an approximately 525 square meter area located at 1245 Dupont Street (the "Licensed Area") commencing July 24, 2020 and expiring July 23, 2023 (the "Term") for the purpose of continuing the operation of the City's BMX park on the north-east section of the adjacent City owned property at 1260 Dufferin Street ("Wallace Emerson Park").
Property	Portion of the property municipally known as 1245 Dupont Street, Toronto, located south of the Galleria Mall and formerly used for parking purposes, as outlined in blue in the sketch attached as Schedule "B" hereto. The total area for use as a BMX Park is outlined in black, the small City owned portion is outlined in yellow, and the area outlined in blue is owned by the Licensor
Actions	<ol style="list-style-type: none"> 1. Authority be granted to enter into the Agreement with the Licensor for use of the Licensed Area for the duration of the Term, substantially on the terms and conditions set out in Appendix "A" together with such other terms and conditions as the Manager of Real Estate Services deems appropriate and in form acceptable to the City Solicitor and 2. The Manager of Real Estate Services shall administer and manage the Agreement including the provision of any consents, approvals, waivers, notices and notices of termination provided that the Manager of Real Estate Services may, at any time, refer consideration of such matter to City Council for its determination and direction.
Financial Impact	<p>The operating and maintenance costs for the BMX Park will reside with the City totaling approximately \$12,000 (net of HST) or \$12,211.20 (net of HST recoveries) for the three (3) year term of the licence agreement, which is \$4,000 (net of HST) or \$4,070.40 (net of HST recoveries) per annum.</p> <p>The City is not required to pay a licence fee for use of the Licensed Area and is not responsible for any taxes or utilities associated with the Property.</p> <p>Funding is available in the 2020 Council Approved Operating Budget for Parks, Forestry and Recreation (PF&R) under cost centre P12081, and will be included in future Operating Budget submissions for Council consideration.</p> <p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>Pursuant to DAF 2017-121, the City entered into an agreement with the Licensor dated June 13, 2017 (the "Original Licence") to relocate and operate a City-owned and controlled BMX park that had been previously located on the west side of Wallace Emerson Park. The three (3) year term of the Original Licence is nearing completion and the Licensor is willing to extend the City's use of the Licensed Area as a BMX park for an additional three years or until such time as the lands are required for development purposes by the Licensor. A new licence agreement is necessary to effect this agreement.</p> <p>PF&R confirms that these premises are required and supports the City entering into the Agreement. PF&R has also requested the termination clause be revised to allow either party to terminate with 60 days' notice.</p>
Terms	See Appendix "A" on page 4 for Major Terms and Conditions

Property Details	Ward:	9 – Davenport
	Assessment Roll No.:	1904031490036000000 and 1904031490037000000
	Approximate Size:	35 m x 15 m ±
	Approximate Area:	approximately 525 square meters (5,651 square feet)
	Other Information:	N/A

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:	Delegated to more senior positions.	<input type="checkbox"/> Issuance of RFPs/REOIs.
4. Permanent Highway Closures:	Delegated to more senior positions.	<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:	Delegated to more senior positions.	Delegated to more senior positions.
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:	Delegated to more senior positions.	<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):	Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position. <input checked="" type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$50,000.	Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position. <input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.
11. Easements (City as Grantor):	<input type="checkbox"/> Where total compensation does not exceed \$50,000. Delegated to more senior positions.	<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:	Delegated to more senior positions.	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).
14. Miscellaneous:	Delegated to more senior positions.	<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:	Ana Bailao				Councillor:										
Contact Name:					Contact Name:										
Contacted by:	Phone	x	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	No objection – June 2, 2020				Comments:										
Consultation with Divisions and/or Agencies															
Division:	PF&R				Division:	Financial Planning									
Contact Name:	Brian Majcencic				Contact Name:	Filisha Jenkins									
Comments:	Comments incorporated				Comments:	Comments incorporated – June 2,2020									
Legal Division Contact															
Contact Name:	Catherine Thomas – Comments incorporated														

DAF Tracking No.: 2020- 143	Date	Signature
Concurred with by: Manager, Real Estate Services Daran Somas		X
<input type="checkbox"/> Recommended by: Manager, Real Estate Services Alex Schuler	June 3, 2020	Signed by Alex Schuler
<input type="checkbox"/> Approved by: Director, Real Estate Services Graham Leah	June 15, 2020	Signed by Graham Leah

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 for Licence Agreement

Licensed Area:

Approximately 525 square meters (5,651 square feet)

Licensor:

2470347 Ontario Inc.

Licensee:

City of Toronto

Property Address:

Portion of the property located at 1245 Dupont Street

Term:

Three (3) years, commencing July 24, 2020 and expiring July 23, 2023

Licence Fee:

Nil

Associated Costs:

The operating and maintenance costs for the new BMX area will reside with the City and will be approximately \$12,000 (net of HST) for the 3 year term or \$4,000 per annum (net of HST).

The City is not responsible for any extra cost associated with the Lands, such as utilities, property tax and HST on property tax.

Use:

The Licensor grants to City and its contractors and consultants the right to access the Licensed Area in order to operate and maintain the BMX Park and acknowledges the public's the right to use the BMX Park in accordance with the Municipal Code Chapter 608 (the Parks Bylaw) and all other applicable federal, provincial and municipal statutes, regulations, bylaws ordinances, orders, rules or guidelines.

Licensor responsibilities:

- take all reasonably necessary precautions to prevent damage, interruption or injury to the Licensed Area, the BMX Park or any users thereof when completing any demolition or construction on the Property
- require any person purchasing the Property to assume the Agreement on the same terms and conditions

Licensee responsibilities:

- maintain the ramps and other equipment in a state of good repair;
- erect and maintain signage identifying a code of conduct and enforce same, along with all other applicable laws
- inspect the equipment monthly in accordance with ASTM International Standard Guide for Above Ground Public Use Skatepark Facilities and ensure any re-configuration of the ramps and other equipment are in accordance with same;
- minimize disturbance to the normal usage of the Property
- Remove the installed BMX park equipment and remove all debris from the Licensed Area within two weeks if the agreement is terminated early or fully expires or else risk having to reimburse the Licensor's costs of doing same, including potential storage costs.
- 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 installation and operation of the *BMX Park* upon the *Licensed Area* by the City and its *Representatives* during the *Term*, except to the extent caused and/or contributed to by the gross negligence or wilful misconduct of the Licensor.

Insurance:

The City will provide the Licensor evidence of Comprehensive General Liability Insurance in the amount of \$5,000,000 and such policy shall name both the Licensor and Avison Young Real Estate Management Services Ontario Inc. as additional named insureds and shall contain an undertaking by the insurer to notify the Licensor not less thirty (30) days prior to any early termination.

Termination rights:

The City shall have the right to terminate the Licence upon giving sixty (60) days written notice thereof to the Licensor. In the event of such notice the City shall be responsible for restoring the Licensed Area and the Licensor shall notify the City in writing within four weeks that the restoration of the

Licensed Area has been completed.

The Licensor shall have the right to terminate the License, if the Licensed Area is required for the re-development of the Property, upon giving sixty (60) days written notice thereof to the City. In the event of such notice the Licensor shall be responsible for restoring the Licensed Area at their cost and expense.

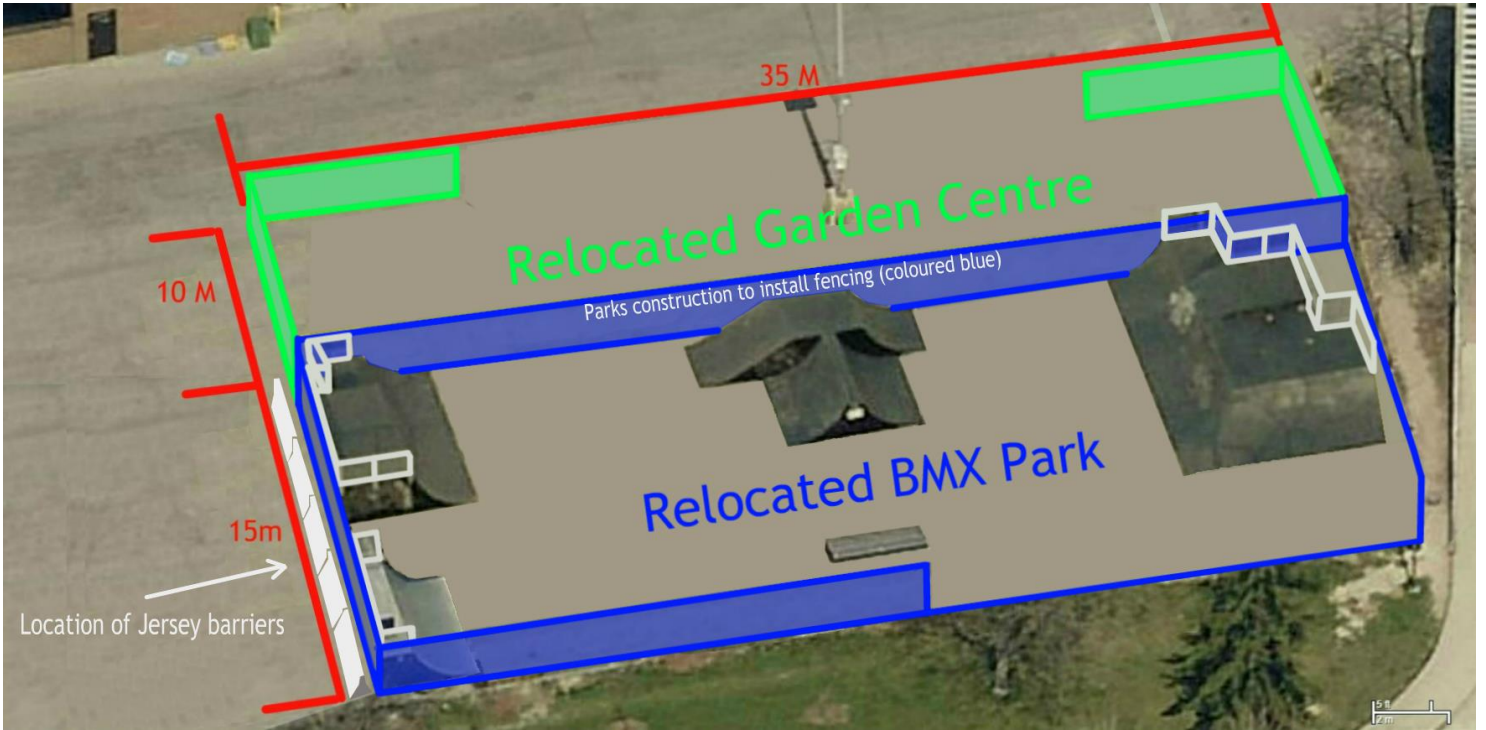
**SCHEDULE "A"
SITE LOCATION MAP**



**SCHEDULE "B"
LICENSED AREA**



SCHEDULE "C"
RELOCATED BMX PARK*



* Relocated Garden Center shown on Schedule "C" is a separate project. Licensor is responsible for implementing this separate project without involvement of Licensee.