

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

TRACKING NO.: 2021-112

Approved pursuant to the Delegated Authority contained in Article 2 of City of Toronto Municipal Code Chapter 213, Real Property

Prepared By:	Rafael Gutierrez	Division:	Corporate Real Estate Management
Date Prepared:	March 30, 2021	Phone No.:	416-338-2995

**Purpose**  
To obtain authority for the City of Toronto (the "**City**") to enter into a four (4) year Temporary Easement Extension and Amending Agreement with Enwave Energy Corporation ("**Enwave**") and to amend the definition of Temporary Tunnel Work to include work related to the Deep Lake Water Cooling Expansion Project.

**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**

- Authority is granted to enter into a Temporary Easement Extension Agreement for four (4) years with Enwave commencing on November 1, 2020 and expiring on October 31, 2024, 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 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**  
The City will receive a total revenue of \$480,000.00 (plus HST), payable in equal monthly instalments of \$10,000.00 (plus HST) throughout the four (4) year term and will be directed to the 2021 Council Approved Operating Budget for Corporate Real Estate Management under cost center FA1379.

			Excluding HST	
Fiscal Year	Period	No. of Months	Monthly Rate (plus HST)	Total Revenues (plus HST)
2020	Nov. 1, 2020 to Dec. 31, 2020	2	\$ 10,000.00	\$ 20,000.00
2021	Jan. 1, 2021 to Dec. 31, 2021	12	\$ 10,000.00	\$ 120,000.00
2022	Jan. 1, 2022 to Dec. 31, 2022	12	\$ 10,000.00	\$ 120,000.00
2023	Jan. 1, 2023 to Dec. 31, 2023	12	\$ 10,000.00	\$ 120,000.00
2024	Jan. 1, 2024 to Oct. 31, 2024	10	\$ 10,000.00	\$ 100,000.00
<b>SUBTOTAL</b>				<b>\$ 480,000.00</b>

**Comments**  
The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial implications as identified in the Financial Impact section.

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.

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.

In 2020, the City and Enwave entered into a Temporary Easement Extension Agreement commencing on November 1, 2019, which expired on October 31, 2020 (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. The City and Enwave also entered into a Temporary Easement Amending Agreement effective May 4, 2020, which was authorized via DAF No. 2020-090. There were no financial implications.

**Terms**  
See Appendix "A".

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

A.	Manager, Real Estate Services has approval authority for:	Director, Real Estate Services has approval authority for:
<p>1. Acquisitions:</p> <p>2A. Expropriations Where City is Expropriating Authority:</p> <p>2B. Expropriations For Transit-Related Purposes Where City is Property Owner or Has Interest in Property Being Expropriated:</p> <p>3. Issuance of RFPs/REOIs:</p> <p>4. Permanent Highway Closures:</p> <p>5. Transfer of Operational Management to Divisions, Agencies and Corporations:</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/Licensors):</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><input type="checkbox"/> (a) Acceptance of statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$50,000.</p> <p><input type="checkbox"/> (b) Request Hearings of Necessity.</p> <p><input type="checkbox"/> (c) Waive Hearings of Necessity.</p> <p><b>Delegated to more senior positions.</b></p> <p><b>Delegated to more senior positions.</b></p> <p><b>Delegated to more senior positions.</b></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><b>Delegated to more senior positions.</b></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><b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b></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><b>Delegated to more senior positions.</b></p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p><b>Delegated to more senior positions.</b></p> <p><b>Delegated to more senior positions.</b></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"/> (a) Acceptance of statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.</p> <p><input type="checkbox"/> (b) Request Hearings of Necessity.</p> <p><input type="checkbox"/> (c) Waive Hearings of Necessity.</p> <p><input type="checkbox"/> Issuance of RFPs/REOIs.</p> <p><input type="checkbox"/> Initiate process &amp; authorize GM, Transportation Services to give notice of proposed by-law.</p> <p><b>Delegated to more senior positions.</b></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><b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b></p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.</p> <p><input checked="" 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/Estoppel 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. 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 each position 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.

**Pre-Condition to Approval**

Complies with General Conditions in Appendix B of City of Toronto Municipal Code Chapter 213, Real Property

**Consultation with Councillor(s)**

Councillor:	Joe Cressy	Councillor:	
Contact Name:	Bushra Mir	Contact Name:	
Contacted by:	Phone <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Memo <input type="checkbox"/> Other <input type="checkbox"/>	Contacted by:	Phone <input type="checkbox"/> E-mail <input type="checkbox"/> Memo <input type="checkbox"/> Other <input type="checkbox"/>
Comments:	Concurs (March 30, 2021)	Comments:	

**Consultation with Divisions and/or Agencies**

Division:	Toronto Water / Parks, Forestry, & Recreation	Division:	Financial Planning
Contact Name:	Mike Brannon, Niall Robertson, Henry Polvi / Jason Bragg	Contact Name:	Patricia Libardo
Comments:	Concurs (March 26, 2021 / March 26, 2021)	Comments:	Concurs (March 29, 2021)

**Legal Services Division Contact**

Contact Name: Vanessa Bacher, Aiden Alexio

DAF Tracking No.: 2021-112	Date	Signature
Concurred with by: Manager, Real Estate Services		X
<input checked="" type="checkbox"/> Recommended by: Manager, Real Estate Services Daran Somas	Mar. 31, 2021	Signed by Daran Somas
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Director, Real Estate Services Alison Folosea	Mar. 31, 2021	Signed by Alison Folosea

**Appendix "A"**  
**Major Terms and Conditions, Temporary Easement Lands**

Transferor:  
City of Toronto

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.

Background:

The Transferee elected to exercise its right to extend the term of the Temporary Easement Agreement for a further 3 years from November 1, 2020 to October 31, 2023 in accordance with the 2020 Easement Extension Agreement, has requested a further extension to October 31, 2024, and has asked for amendments to the definition of Temporary Tunnel Work to include reference to work related to the Deep Lake Water Cooling Expansion Project.

The Transferee plans to expand the existing Deep Lake Water Cooling system by constructing a new tunnel to draw water directly from Lake Ontario, by-passing the City's potable water system, and connecting to new Enwave equipment to be installed at the JSPS, to increase system cooling capacity all as further set out in the Amended and Restated ETA. Toronto City Council through Item IE 10.9 titled "Enwave Deep Lake Water Cooling – Expansion Proposal Amendment to the Energy Transfer Agreement", adopted on December 17 and 18, 2019, authorized the General Manager, Toronto Water to negotiate and enter into an Amended and Restated Energy Transfer Agreement and which agreement dated February 26, 2021 was entered into by Transferor and Transferee (the "Amended and Restated ETA").

Term:

Four (4) years, commencing on November 1, 2020, and expiring on October 31, 2024.

Temporary Easement Price:

The City will receive total net revenue of \$480,000.00 (before HST), payable in equal monthly instalments of \$10,000.00, for the four (4) year term.

Aerial Shot



Map

