

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

TRACKING NO.: 2022-148

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

Prepared By:	Miles Argue	Division:	Corporate Real Estate Management
Date Prepared:	June 9, 2022	Phone No.:	416-397-7522

Purpose	To obtain authority to enter into a construction staging and crane swing licence agreement (the "Licence") with Aqualuna Bayside Toronto Inc. (the "Licensee") to facilitate the construction of a mixed-use development including commercial, municipal and residential components known commercially as Aqualuna (the "Development").		
Property	The property municipally known as those closed portions of Parliament Street and Queen's Quay East, Toronto, legally described in Appendix "B", and as shown on the Location Map in Appendix "C" and on the sketches in Appendices "D" and "E".		
Actions	1. Authority be granted to enter into the Licence with the Licensee, 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.		
Financial Impact	The City will receive revenues in the amount of \$288,000.00 (plus HST). The City will receive additional revenues of up to \$96,000.00 (plus HST), should the Licensee exercise its options to extend. The maximum total compensation is \$384,000.00 (plus HST). Proceeds will be contributed to the Land Acquisition Reserve Fund (XR1012), shown on a fiscal basis as follows:		
	Initial Term:	Option to Extend (if applicable):	
	2022: \$176,000	2024: \$80,000	
	2023: \$96,000	2025: \$16,000	
	2024: \$16,000	Sub-total: \$96,000	
	Total: \$288,000		
		Total Maximum Revenues: \$384,000 (Plus HST)	
Comments	<p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial implications as identified in the Financial Impact section.</p> <p>The Licensee requested permission to use, occupy and access a portion of the Property, having an approximate area of 1,000 square meters, identified as the "Construction Staging Area" on the sketch in Appendix "D", for the purposes of construction staging in support of the Development (the "Construction Staging Licence"). Under the terms of the Agreement, the commencement date of the Construction Staging Licence is in effect as of March 1, 2021 and expires on February 29, 2024, with an option to extend for one (1) year.</p> <p>To facilitate the Development, the Licensee also requested permission to swing from time to time a non-load bearing construction boom over a portion of the Property, having an above-ground area of approximately 910 square meters, identified as the "Crane Swing Area" on the sketch in Appendix "E" (the "Crane Swing Licence"). Under the terms of the Agreement, the Crane Swing Licence is in effect as of September 3, 2021 and expires on September 2, 2024 (the "Crane Swing Area Term"), with an option to extend for one (1) year.</p> <p>The Property was stopped up and closed as a public highway by City of Toronto By-Law No. 1985-0097. As part of the Waterfront Revitalization initiative, the Property will be required in future for the realignment of Parliament Street and the extension of Queen's Quay East. To account for this future work, the City has reserved a right, which can be exercised in its sole discretion, to terminate the Construction Staging Licence early (whether in its original term or a possible extended term), with no less than sixty (60) days' notice to the Licensee. In consultation with Waterfront Toronto and the Waterfront Secretariat, it was determined that reserving an option to terminate the Crane Swing Licence early was not necessary, as the crane swing is elevated enough to not pose any concerns or interfere with future realignment work.</p> <p>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.</p>		
Terms	See Appendix "A"		

Property Details	Ward:	10 – Spadina-Fort York
	Assessment Roll No.:	n/a
	Approximate Size:	irregular
	Approximate Area:	1000 m ² ± (10,764 ft ² ±)
	Other Information:	

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 & Parks & 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>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 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"/> (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 & 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 checked="" 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/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 (Managers whose position includes responsibility for implementing Council-approved expropriations are the only Managers 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 Mihevc	Councillor:	
Contact Name:	Tom Davidson	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:	No Objections – email 2021.08.05	Comments:	

Consultation with Divisions and/or Agencies

Division:	Waterfront Secretariat	Division:	Financial Planning
Contact Name:	Diane Silver	Contact Name:	Filisha Jenkins
Comments:	Concurs (email 2022.07.13)	Comments:	Comments Incorporated (email 2022.06.21)

Legal Services Division Contact

Contact Name:	Seija Pietrangelo, Solicitor
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DAF Tracking No.: 2022-148	Date	Signature
<input checked="" type="checkbox"/> Recommended by: Manager, Real Estate Services Vinette Prescott-Brown	July 20, 2022	Signed by Vinette Prescott-Brown
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Director, Real Estate Services Alison Folosea	July 22, 2022	Signed by Alison Folosea

APPENDIX "A"
MAJOR TERM AND CONDITIONS

Licensor:	City of Toronto
Licensee:	Aqualuna Bayside Toronto Inc. in its capacity as nominee for and on behalf of Aqualuna Bayside Toronto Partnership, a general partnership of 2572942 Ontario Limited and Hines Bayside IV ULC, as beneficial owner.
Property:	The property municipally known as those closed portions of Parliament Street and Queen's Quay East, Toronto, legally described in Appendix "B", and as shown on the Location Map in Appendix "C" and on the sketches in Appendices "D" and "E".
Construction Staging Area:	1,000 square meters, as shown Appendix "D".
Crane Swing Area:	910 square meters, as shown on Appendix "E"
Construction Staging Term:	March 1, 2021 to February 29, 2024
Crane Swing Term:	September 3, 2021 to September 2, 2024
Option to Extend:	The Licensee may, not less than 90 days prior to the expiry of the Crane Swing Term and/or Construction Staging Term, give notice to the City to extend the Construction Staging Licence and/or the Crane Swing Licence for a further period of one (1) year.
Early Termination:	The City has the right, in its sole discretion, to terminate the Construction Staging Licence, upon not less than sixty (60) days' notice to the Licensee.
License Fee:	EIGHT THOUSAND DOLLARS (\$8,000.00) plus harmonized sales tax per month, and SEVEN THOUSAND, TWO HUNDRED AND EIGHTY DOLLARS (\$7,280.00) plus harmonized sales tax per month, if the Crane Swing Term is extended and the Construction Staging Term is not extended.
Use:	To permit the Licensee to carry on construction staging activities in the Construction Staging Area and to swing a construction crane over the Crane Swing Area to facilitate construction of the Development.
Insurance:	The Licensee will be required to provide Commercial General Liability in the amount of \$10 million per occurrence for bodily injury (including death) and property damage. The City will be added as an additional insured.
Restoration:	Upon expiry or termination, the Licensee is required to restore the Construction Staging Area to a condition as close as is practicable to its condition prior to occupation by the Licensee. This obligation includes restoration to the pre-existing environmental condition of the Construction Staging Area, as established by a draft report dated July 26, 2012 entitled, "Phase Two Environmental Site Assessment: Queens Quay East and Parliament Street, Lower Jarvis to Lakeshore Boulevard East; Toronto, Ontario," prepared for Waterfront Toronto by Franz Environmental Inc.
Release and Indemnity	The Licensee releases and shall at all times fully indemnify and save harmless the City from any and all manner of claims which may be made or brought against the City or its property, in respect of any loss, damage, or injury to any person or property directly or indirectly arising out of the exercise of the Licence; the Licensee's use of the Licensee's Chattels; the Licensee's occupation of the Property; the Licensee's breach of any warranty or default in the observation of any covenant under the Licence; the Licensee's failure to observe any applicable laws; and the presence of any pollutant on the Property or the release of any pollutant on the Property due to an act or omission of the Licensee. The Licensee shall also fully indemnify and save harmless the City against and from all liens which may bind the Property resulting directly or indirectly from any act or omission of the Licensee, including claims under the Construction Act or any successor legislation..

**APPENDIX "B" –
LEGAL DESCRIPTION OF PROPERTY**

FIRSTLY

PART OF PIN 21384-0089 (LT) BEING PARLIAMENT ST PL 666E TORONTO CLOSED BY UNREGISTERED BYLAW S OF LAKESHORE BLVD; LT 10 PL 694E TORONTO PT 4 & 5 63R3217; TORONTO , CITY OF TORONTO

SECONDLY

PART OF PIN 21384-0445 (LT) BEING QUEENS QUAY PL 616E TORONTO (AKA QUEENS QUAY WEST) & QUEENS QUAY PL 666E TORONTO (AKA QUEENS QUAY EAST) WIDENING PL 640E; PT LT 14-16 PL 616E TORONTO AS IN ES67516; PT BLK C, F PL 640E TORONTO AS IN ES67516; PT LT 11 PL 649E TORONTO AS IN ES54950; BEING QUEENS QUAY BTN YORK & PARLIAMENT ST; TORONTO (DES AMENDED 02/04/17 BY HG) , CITY OF TORONTO

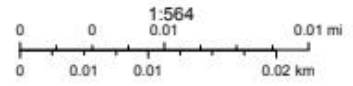
APPENDIX "C"
LOCATION MAP



APPENDIX "D" – SKETCH OF CONSTRUCTION STAGING AREA



March 12, 2021



APPENDIX "E" SKETCH OF CRANE SWING AREA

