

CITY MANAGER

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

Prepared By:	Patricia Palmieri	Division:	Corporate Real Estate Management
Date Prepared:	December 12, 2022	Phone No.:	416-392-4829

Purpose	To obtain authority to enter into an agreement of purchase and sale, a licence agreement and an easement agreement, collectively (the "Agreements") with Hydro One Networks Inc. (the "Owner") to acquire a fee simple interest in 30 Lockport Avenue for the future Toronto Transit Commission (the "TTC") Western Yard Storage and Maintenance Facility (the "Project") as shown on the Location Map in Appendix "A".												
Property	Part of Lot 7, Concession 4, Part of Lot 7, Concession 5, Part of Road Allowance between Concessions 4 and 5, Colonel Smith's Tract (formerly City of Etobicoke), S/T EB447009, City of Toronto; designated as Parts 1 to 12 on Plan 66R-32821, and being part of PIN 07545-0057 (LT) (the "Property"), on the reference plan shown in Appendix "C".												
Actions	1. Authority be granted to the Executive Director, Corporate Real Estate Management to execute the Agreements and any additional or ancillary agreement required for the acquisition of the Property, substantially on the major terms and conditions set out in Appendix "B", and further authorize him or his designate to prepare, authorize and serve the payments associated with the Agreements, including such other or amended terms and conditions as deemed appropriate, and in a form satisfactory to the City Solicitor.												
Financial Impact	<p>The total cost to the City is \$41,776,269.24 (plus HST) for the full taking of the Property as outlined below. The annual rental income the City will be receiving from the assumed tenant is outlined in Appendix "B". Funding for the Property acquisition and associated expenses is available in the 2022-2031 Council Approved Capital Budget and Plan for the TTC under capital project account CTT110-1 for the purposes of the Project.</p> <table border="1"> <tr> <td colspan="2"><u>Total Compensation</u></td> </tr> <tr> <td>Fee Simple Value</td> <td>\$39,946,791.00</td> </tr> <tr> <td>Environmental Clean-Up</td> <td>\$ 1,326,000.00</td> </tr> <tr> <td>Land Transfer Tax</td> <td>\$ 789,686.65</td> </tr> <tr> <td><u>Retention of Permanent Easement</u></td> <td><u>- \$ 286,208.41</u></td> </tr> <tr> <td>Total</td> <td>\$41,776,269.24 (plus HST)</td> </tr> </table>	<u>Total Compensation</u>		Fee Simple Value	\$39,946,791.00	Environmental Clean-Up	\$ 1,326,000.00	Land Transfer Tax	\$ 789,686.65	<u>Retention of Permanent Easement</u>	<u>- \$ 286,208.41</u>	Total	\$41,776,269.24 (plus HST)
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Fee Simple Value	\$39,946,791.00												
Environmental Clean-Up	\$ 1,326,000.00												
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<u>Retention of Permanent Easement</u>	<u>- \$ 286,208.41</u>												
Total	\$41,776,269.24 (plus HST)												
Comments	<p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact implications as identified in the Financial Impact Section.</p> <p>In 2018, the City expropriated 36 North Queen Street and 30 Newbridge Road, (the "Obico Site") situated southwest of Kipling subway station for the Project. TTC staff have determined the Property, which is situated north of the Obico Site, is required to connect the Obico Site to Kipling Station. The acquisition of the Property presents an opportunity to consolidate the TTC's planned capital infrastructure improvements and would be a key strategic element in modernizing Line 2.</p> <p>On Closing the City and the Owner will enter into a licence, as tenant, for a portion of the Property, shown as Parcel 3, 4 and 5 on the plan in Appendix "D". The licence will commence on the closing date and will be subject to the terms and conditions set out in Appendix "B". The City will be conveying to the Owner a permanent easement over, along, upon, through and across the lands designated as Parts 4 and 6 on Plan 66R-32821 shown in Appendix "C", for the purposes of providing a non-exclusive unobstructed vehicular and pedestrian ingress to and egress from the Owner's transmission line lands.</p> <p>Pursuant to the Agreements, the Owner has agreed to execute and deliver an assignment and assumption of the existing licence on a portion of the Property to the City. The Owner will assign and transfer to the City all its rights, title and interest in, to and under the licences and all rents and revenues and all other rights, benefits and advantages, as outlined in Appendix "B".</p> <p>The terms of the Agreement are fair, reasonable and reflective of market value.</p> <p>On July 19, 20, 21 & 22, 2022 City Council adopted CC47.4 delegating to the City Manager authority to approve real estate transactions to an upper financial limit of \$50 million, where such transaction is for housing, shelter, transit purposes, critical capital infrastructure projects, or another time sensitive proposal, providing there is available funding. City Council directed that the delegated authorities be in effect immediately following the end of the City Council meeting on July 20, 2022 until the first scheduled regular City Council meeting of the new term in 2022-2026. In order to meet 2022 budget requirements and facilitate a 2022 Closing, this transaction is being undertaken in accordance with this delegation of approval.</p>												
Terms	See Appendix "B"												

Property Details	Ward:	Ward 3 – Etobicoke-Lakeshore
	Assessment Roll No.:	1919014250048500000
	Approximate Size:	Irregular
	Approximate Area:	Irregular
	Other Information:	n/a

A.	City Manager has approval authority for:
1. Acquisitions:	<input checked="" type="checkbox"/> Where total compensation does not exceed \$10 Million.
2A. Expropriations Where City is Expropriating Authority:	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$10 Million.
2B. Expropriations For Transit-Related Purposes Where City is Property Owner or Has Interest in Property Being Expropriated:	<input type="checkbox"/> (a) Acceptance of statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$10 Million.
3. Issuance of RFPs/REOs:	Request/waive hearings of necessity delegated to less senior positions.
4. Permanent Highway Closures:	Delegated to less senior positions.
5. Transfer of Operational Management to Divisions, Agencies and Corporations:	Delegated to less senior positions.
6. Limiting Distance Agreements:	<input type="checkbox"/> Where total compensation does not exceed \$10 Million.
7. Disposals (including Leases of 21 years or more):	<input type="checkbox"/> Where total compensation does not exceed \$10 Million.
8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan:	Delegated to less senior positions.
9. Leases/Licences (City as Landlord/Licensor):	<input checked="" type="checkbox"/> Where total compensation (including options/ renewals) does not exceed \$10 Million. Leases/licences for periods up to 12 months at less than market value delegated to less senior positions. Leases pursuant to the Community Space Tenancy Policy delegated to a less senior position.
10. Leases/Licences (City as Tenant/Licensee):	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$10 Million.
11. Easements (City as Grantor):	<input checked="" type="checkbox"/> Where total compensation does not exceed \$10 Million. Nominal sum easements to pre-existing utilities when closing roads delegated to less senior positions.
12. Easements (City as Grantee):	<input type="checkbox"/> Where total compensation does not exceed \$10 Million.
13. Revisions to Council Decisions in Real Estate Matters:	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (U)).
14. Miscellaneous:	Delegated to less senior positions.

B. City Manager has signing authority on behalf of the City for:

- Documents required to implement matters for which this position also has delegated approval authority.

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:	Councillor Amber Morley	Councillor:	
Contact Name:	Councillor Amber Morley	Contact Name:	
Contacted by:	Phone <input type="checkbox"/> X E-Mail <input 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:	Advised	Comments:	

Consultation with Divisions and/or Agencies

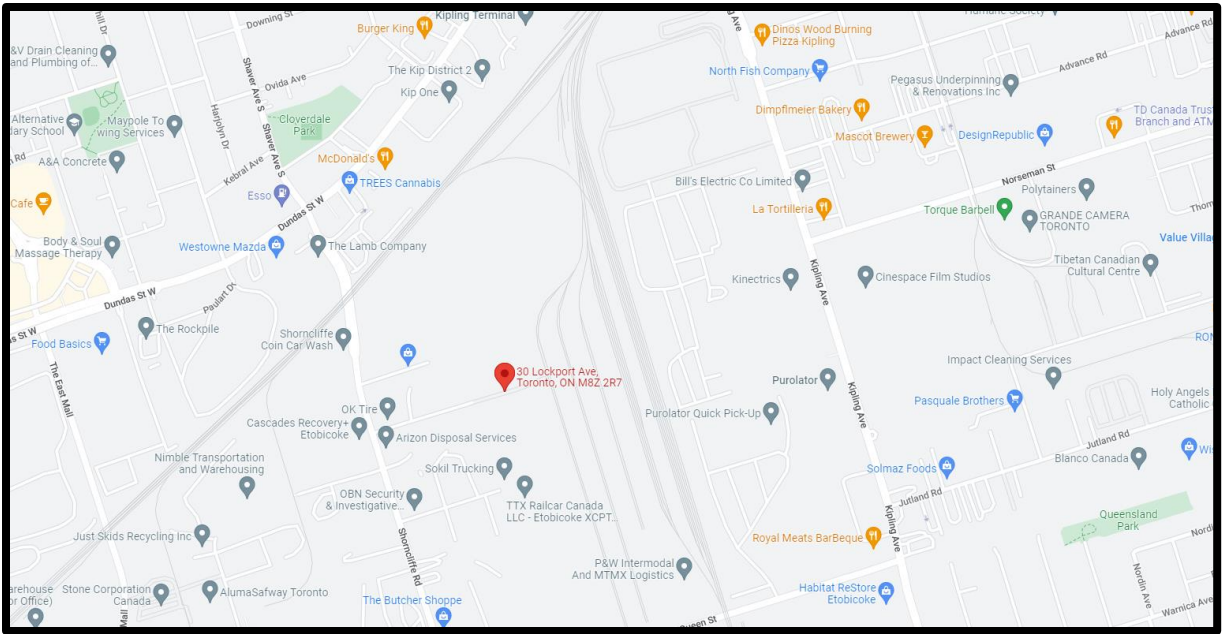
Division:	Toronto Transit Commission	Division:	Financial Planning
Contact Name:	Duane Lovelace	Contact Name:	Filisha Jenkins
Comments:	Concurs	Comments:	Concurs

Legal Services Division Contact

Contact Name:	Dale Mellor
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DAF Tracking No.: 2021- 282	Date	Signature
Recommended by: Manager, Real Estate Services	Dec. 12, 2022	Signed by Vinette Prescott-Brown
Recommended by: Director, Real Estate Services	Dec. 12, 2022	Signed by Alison Folosea
<input checked="" type="checkbox"/> Recommended by: Executive Director, Corporate Real Estate Management Patrick Matozzo	Dec. 12, 2022	Signed by Patrick Matozzo
<input checked="" type="checkbox"/> Recommended by: Deputy City Manager, Corporate Services Josie Scioli	Dec. 13, 2022	Signed by Josie Scioli
<input checked="" type="checkbox"/> Approved by: City Manager Paul Johnson	Dec. 13, 2022	Signed by Paul Johnson

Appendix "A" – Location Map



Appendix "B" – Terms and Conditions

Agreement for Purchase and Sale - Terms and Condition:

Purchaser	City of Toronto
Vendor	Hydro One Networks Inc.
Purchase Price	\$39,946,791.00 (plus HST)
Permitted Encumbrances	Toronto Hydro Distribution feeder line located on the Property through Parts 5, 6, 7, 10 and 11 on Plan 66R-32821. Reservation of mineral rights set out in an Indenture with Instrument No. EB447009
Closing	The Closing of this transaction shall take place prior to 4:00 p.m., on December 21, 2022, or such earlier or later time and at such place as shall be agreed in writing by the parties hereto or their respective solicitors.
Existing Contracts	The Vendor covenants and agrees that it will terminate, effective on or before the closing date, all contracts other than the licences set out in Schedule "B" hereto, and the Purchaser will not assume or bear any costs associated with the termination of any such contracts. The Vendor will assign, and the Purchaser shall assume, its interest in the licence set out in the Purchase Agreement effective at the closing date with the Vendor being responsible for all obligations thereunder up to but excluding the closing date and the Purchaser shall be responsible for all obligation thereunder from and after the closing date. The parties agree to enter into an assignment and assumption agreement, and the Vendor shall secure an Estoppel Certificate from the licensee.
Grant of Licence/Lease	On Closing the Purchaser and the Vendor shall enter into a licence for the Vendor to remain in the building on the Property and occupy some storage space for a term of Three (3) Years.
Environmental Remediation	WSP Canada Inc. (WSP) was retained by TTC to complete environmental reports. They identified soil and groundwater contaminates and provided TTC with the estimated costs set out below to address the identified impacts: <ul style="list-style-type: none"> • Approximate Clean Up Costs: \$1,326,000.00 + \$172,380.00 (HST) = \$1,498,380.00; and • TTC has agreed to pay the costs associated with the environmental clean-up of the Property.
Purchaser Environmental Release	The Purchaser is acquiring the Property in an "as-is" condition. The Purchaser covenants and agrees to execute and deliver to the Vendor on or before the closing date, a release from any and all claims, demands, actions or causes of action, that the Purchaser may assert against the Vendor for, or attributable to, the structural, physical and environmental condition of the Property, including without limitation, the presence, discovery or removal of, or exposure to, any Hazardous Substances in, at, about or under the Property or for any causes of action based upon any environmental laws prior to, on or following the closing date.
Grant of Easement	The Purchaser covenants and agrees to the retained easement right for access over Parts 4 and 6 on Plan 66R-32821, in favour of the Vendor, as set out attached to the Purchase Agreement.

Licence - Terms and Conditions:

Landlord	City of Toronto
Tenant	Hydro One Networks Inc. (the "Tenant")
Premises	<p>Parcel 3 (Building) and Parcel 4 & 5 (Storage Area) on the City lands shown in Appendix "C", being approximately 26,116 square metres.</p> <p>The Tenant shall have the right to reduce the size of Parcel 5 within the Premises on thirty (30) days' prior written notice to the Landlord. The parties shall document this amendment in the form of a Licence Amending Agreement to be negotiated and executed in good faith, subject to the Tenant paying the Landlord's legal fee as mandated from time to time in the <i>Toronto Municipal Code Chapter 441, Appendix C, Schedule 15</i>.</p>
Term	Three years to commence on December 21, 2022 and end on December 31, 2025. Subject to the Landlord's right to terminate at any time from July 1, 2024, provided that the Landlord has provided the Licensee with a minimum of twelve months' prior written notice.
Licence Fee	<p>The Licence shall be granted for nominal value for Parcel 3 & 4 shown on the Plan.</p> <p>In respect to Parcel 5 on the Plan, the Tenant is to pay the following Licence Fee to the Landlord:</p> <p>From December 21, 2022 to December 31, 2023 the sum of \$351,781.00 plus HST;</p> <p>From January 1, 2024 to December 31, 2024 the sum of \$341,490.00 plus HST; and</p> <p>From January 1, 2025 to December 31, 2025 the sum of \$341,490.00 plus HST.</p>
Utilities, Taxes and other Costs	The Licence shall be completely net and carefree to the Landlord of all expenses, costs, charges, compensation, penalties and fees arising out of the Licence and the use of the Premises by the Tenant.
Access	The Tenant shall be entitled to non-exclusive use to ingress and egress from Lockport Avenue, to and from the Premises, on foot or with vehicles over and along the access shown as Parcel 1 and 2 on the City lands attached hereto. During the Term HONI have committed to be responsible for the maintenance, repair and replacement of the access, including all costs thereto, including snow plowing and salting or safe and uninterrupted travel along the access. HONI have authorized funding of approximately \$50,000 for driveway repairs and upgrades for their use under this Licence.
Maintenance and Responsibilities	<p>The Tenant shall use, operate, clean, maintain and repair, at its sole cost and expense, the Premises including the HVAC facilities exclusively servicing the Premises, in a clean, tidy, well-ordered and safe condition and in a good and workerlike manner, free of hazards and accumulations of rubbish or debris, at a first class level of repair (subject only to reasonable wear and tear), in compliance with Applicable Laws, and so as not to create a nuisance, interfere with the day-to-day operations and activities of the City lands and/or its occupants, or interfere with the health, safety, well-being or enjoyment of the other occupants and users of the City lands.</p> <p>It is acknowledged that neither party shall have an obligation to replace any items of a capital nature in respect to the Premises, and in the event a replacement is required, that cannot be managed through Tenant patching and repair, the parties will work together in good faith to determine the most efficient and cost effective way to undertake such replacement, and the parties cost obligations thereto, to ensure the Premises can continue to be used for the permitted use of the Tenant for the duration of the Term;</p> <p>The Tenant is responsible for the maintenance, operational requirements, repair and replacement for the access road for the duration of the Term and any costs arising in relation to the access road</p>
Permitted Use	To use the Premises for warehouse space and the storage of materials and equipment and other uses ancillary to the Tenant's ability as a transmitter and distributor of electricity in the Province of Ontario, Canada.

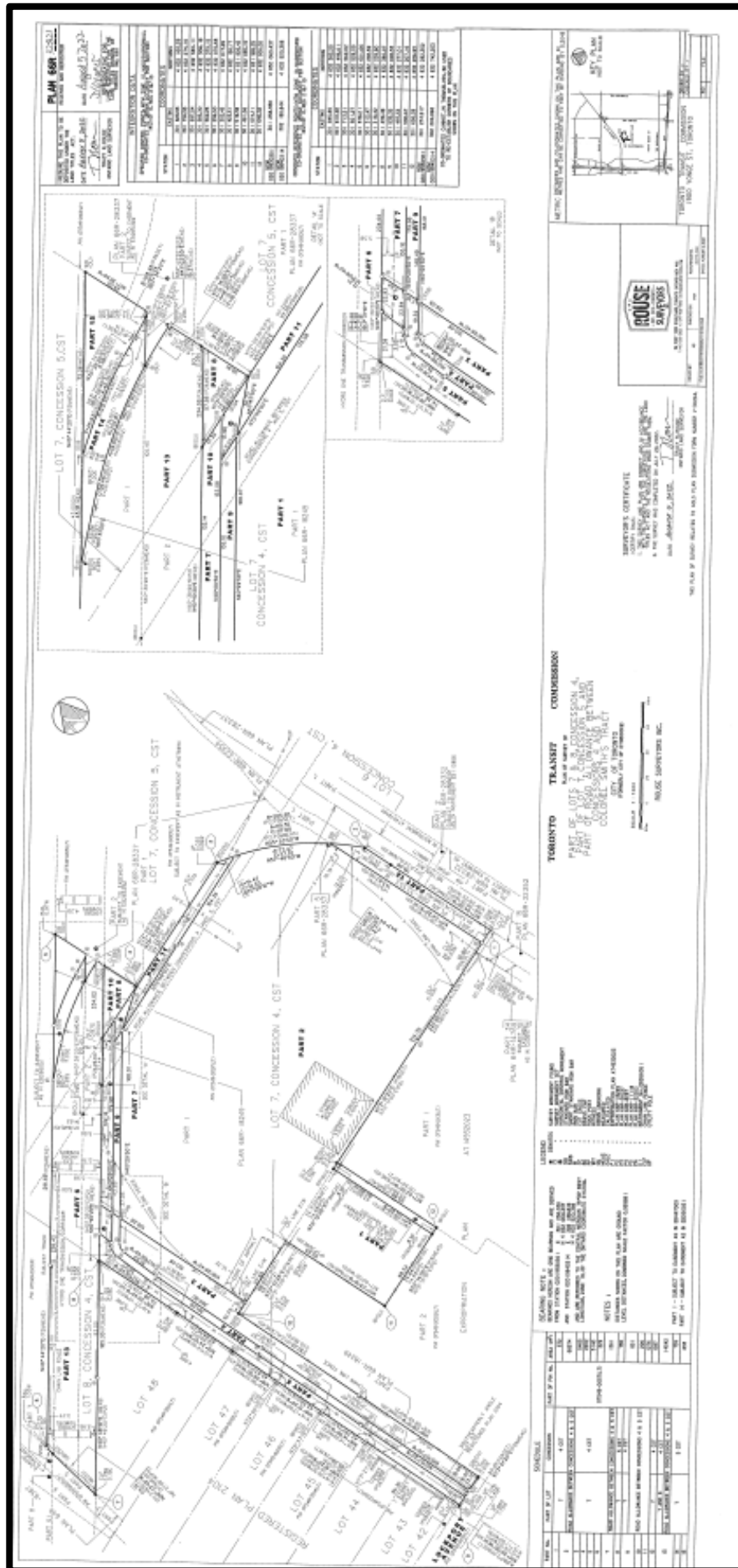
Grant of a Permanent Easement - Terms and Conditions:

Transferor	City of Toronto
Transferee	Hydro One Networks Inc. (the "Transferee")
Value	\$286,208.41 (plus HST) to be deducted off the purchase price
Easement Lands	<p>The Transferor will grant, transfer and convey to the Transferee an easement and right-of-way over, along, upon, through and across that portion of the Lands designated as Parts 4 and 6 on Plan 66R-32821 for the purposes of providing a non-exclusive unobstructed vehicular and pedestrian ingress to and egress from the Transmission Line Lands.</p> <p>The Transferee shall not permit access through the Easement Area to be used for any purpose other than for accessing the transmission line lands.</p>
Restoration after Entry	The Transferee covenants and agrees it will restore the Easement Lands and any of the Transferor's appurtenant lands which may be affected, to a condition as close as reasonably possible to its condition immediately preceding the entry by the Transferee, where required.
Maintenance	<p>The Transferee acknowledges that the Transferor shall have no responsibility to maintain, repair, renew or replace the Easement Area, and the Transferee shall be solely responsible for maintaining, repairing, renewing and replacing the Easement Area, including all costs and expenses incurred thereto, as their access requirements dictate from time to time, and including any administrative expenses, of repairing, renewing, replacing, using and maintaining the Easement Area (which shall also include, but shall not be limited to, the reasonable administrative costs of the Transferor in respect to reviewing documentation, providing any applicable consents and undertaking any required site visits, as may be required in accordance with the terms of this Agreement).</p> <p>The parties acknowledge and agree the obligation of the Transferee to maintain, renew and replace the Easement Area is limited to the purpose and use by the Transferee or its invited permittees. For clarity, the Transferee should only be required to complete snow removal for its own purpose and use.</p>
Insurance	The Transferee shall maintain or cause to be maintained commercial general liability insurance of not less than \$10 Million Dollars (\$5,000,000) per occurrence.

Assignment and Assumption of Licence - Terms and Conditions:

Assignor	Hydro One Networks Inc. (the "Assignor")
Assignee	City of Toronto (the "Assignee")
Tenant	D'Alessandro Investments Limited (the "Tenant")
Terms	<ul style="list-style-type: none"> • The Tenant is leasing 0.185 acres and using a land value of \$1,300,000/acre for 2020, with a 6.5% annual rate of return factor • The Tenant is licensing land for the purpose of parking roadworthy motor vehicles only. • Pursuant to the Purchase Agreement the Assignor has agreed to execute and deliver the assignment of their licence agreement dated December 31, 2013 made between the Assignor and the Tenant, as it has been amended and extended by an agreement dated February 20, 2020. • The Assignor hereby assigns and transfers unto the Assignee licensor's right, title and interest in, to and under the Licence and all rents and revenues and all other rights, benefits and advantages accruing to the licensor. The Assignor hereby agrees to indemnify and save harmless the Assignee from and against all Claims arising directly or indirectly from, in connection with, or under the Licence relating to the period prior to the closing date of the purchase Agreement. • The Assignor covenants to use reasonable commercial efforts to obtain on or before the closing date an estoppel certificate from the Tenant. In the event the Assignor is not successful in obtaining any Estoppel Certificate on or before the closing date from any tenant the Vendor shall deliver a certificate of the Assignor in lieu of each such non-obtained Estoppel Certificate for such tenant, only attesting to the same matters contained in each such non-obtained Estoppel Certificate. Notwithstanding the foregoing, where an Assignor's certificate is delivered by the Assignor on or prior to the closing date in lieu of an executed Estoppel Certificate from the Tenant, the Assignor may at any time after the closing date, deliver the executed Estoppel Certificate for such tenancy to the Assignee which does not include any material qualifications, changes or additions thereto, in which event the Assignor's certificate in lieu thereof shall be returned to it and be of no further force and effect

Appendix "C" – Reference Plan 66R-32821



PLAN FOR

DATE: 2014-01-21

BY: [Signature]

FOR: [Signature]

PROJECT: CONCESSION

SECTION	AREA (SQ. FT.)	AREA (SQ. M.)
1	1,234,567	113,800
2	1,234,567	113,800
3	1,234,567	113,800
4	1,234,567	113,800
5	1,234,567	113,800
6	1,234,567	113,800
7	1,234,567	113,800
8	1,234,567	113,800
9	1,234,567	113,800
10	1,234,567	113,800
TOTAL	12,345,678	1,138,000



HOUSE SURVEY

AS OF 2014-01-21

DATE: 2014-01-21

BY: [Signature]

FOR: [Signature]

PROJECT: CONCESSION

TORONTO TRANSIT CONCESSION

DATE: 2014-01-21

BY: [Signature]

FOR: [Signature]

PROJECT: CONCESSION

NOTES

1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.
2. ALL BEARINGS ARE TRUE BEARINGS UNLESS OTHERWISE SPECIFIED.
3. ALL AREAS ARE IN SQUARE METERS UNLESS OTHERWISE SPECIFIED.
4. ALL DISTANCES ARE IN METERS UNLESS OTHERWISE SPECIFIED.
5. ALL ANGLES ARE IN DEGREES UNLESS OTHERWISE SPECIFIED.
6. ALL CURVES ARE IN METERS UNLESS OTHERWISE SPECIFIED.
7. ALL RADIUS ARE IN METERS UNLESS OTHERWISE SPECIFIED.
8. ALL CHORDS ARE IN METERS UNLESS OTHERWISE SPECIFIED.
9. ALL CHORD BEARINGS ARE TRUE BEARINGS UNLESS OTHERWISE SPECIFIED.
10. ALL CHORD DISTANCES ARE IN METERS UNLESS OTHERWISE SPECIFIED.

SECTION	AREA (SQ. FT.)	AREA (SQ. M.)
1	1,234,567	113,800
2	1,234,567	113,800
3	1,234,567	113,800
4	1,234,567	113,800
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8	1,234,567	113,800
9	1,234,567	113,800
10	1,234,567	113,800
TOTAL	12,345,678	1,138,000

Appendix "D" – Licenced Lands

