

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

TRACKING NO.: 2023-041

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

Prepared By:	Trixy Pugh	Division:	Corporate Real Estate Management
Date Prepared:	February 1, 2023	Phone No.:	(416) 392-8160

Purpose	To obtain authority for the City to enter into a Sublease Agreement (the "Sublease") with Metrolinx, to sublease back to the City a portion of the City-owned 26' wide strip of land along the Don River that is leased to Metrolinx in perpetuity, for the purposes of undertaking works related to the Lower Don Trail Expansion project.																					
Property	A portion of lands along the Don River, bounded by Winchester Street to the north, and the Metrolinx rail corridor to the south, described as Parts 2, 4, 8, 11, 12, 14 and 17 on 66R-29512 and Part 1 on 66R-32836 (the "Subleased Lands") as shown in the Location Map on Appendix "B".																					
Actions	1. Authority be granted to enter into the Sublease with Metrolinx, 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	<p>The cost to the City for the initial five (5) year term is \$88,642.65 (plus HST) or \$90,202.76 (net of HST recovery). Rent for the remaining years will be calculated using the Ontario CPI Index as determined by Statistics Canada.</p> <p>Fees to be paid for each fiscal year is as follows:</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Annual Rent (Excluding HST)</th> <th>Annual Rent (net of HST Recoveries)</th> </tr> </thead> <tbody> <tr> <td>2023</td> <td>\$16,696.25</td> <td>\$16,990.10</td> </tr> <tr> <td>2024</td> <td>\$17,197.14</td> <td>\$17,499.81</td> </tr> <tr> <td>2025</td> <td>\$17,713.05</td> <td>\$18,024.80</td> </tr> <tr> <td>2026</td> <td>\$18,244.44</td> <td>\$18,565.54</td> </tr> <tr> <td>2027</td> <td>\$18,791.77</td> <td>\$19,122.51</td> </tr> <tr> <td>Total</td> <td>\$88,642.65</td> <td>\$90,202.76</td> </tr> </tbody> </table> <p>Funding is available in the 2023 Approved Operating Budget for Parks, Forestry & Recreation under cost centre P06828, 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 implications as identified in the Financial Impact section.</p>	Year	Annual Rent (Excluding HST)	Annual Rent (net of HST Recoveries)	2023	\$16,696.25	\$16,990.10	2024	\$17,197.14	\$17,499.81	2025	\$17,713.05	\$18,024.80	2026	\$18,244.44	\$18,565.54	2027	\$18,791.77	\$19,122.51	Total	\$88,642.65	\$90,202.76
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Comments	<p>In 1890, former City entered into an agreement with the Canadian Pacific Railway, the Belt Line Railway Company, and the Canadian Northern Railway Company & Canadian National Railway Company for various matters, including the lease in perpetuity of a 26' wide strip of land for rail running purposes (collectively, the "Don Agreement"). The Don Agreement as amended, was assigned by Canadian Pacific Railway Company to Metrolinx in 2009.</p> <p>The City had requested that Metrolinx surrender a small strip of the Lease Lands so that the City can undertake upgrades, expansion and maintenance of the Lower Don Trail. Metrolinx did not agree to surrendering any lands, but is willing to enter into the Sublease, to facilitate the City's works. The Subleased Lands are outside of the current active rail corridor and will not interfere with Metrolinx's operations.</p> <p>Real Estate Services staff considers the proposed fee and other terms and conditions in the Sublease to be fair, reasonable and reflective of market rates.</p>																					
Term	Initial term of twenty-five (25) years commencing as of the date the Sublease is fully executed, with an option to extend for a further twenty-five (25) years less one (1) day, by giving Metrolinx not less than 12 months prior written notice. See Appendix "A" for major terms.																					

Property Details	Ward:	13 – Toronto Centre 14 – Toronto-Danforth
	Assessment Roll No.:	
	Approximate Size:	
	Approximate Area:	1,494.8 m ² ± (16,090 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 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 checked="" 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:	Christopher Moise, Paula Fletcher				Councillor:				
Contact Name:	Christopher Moise, Paula Fletcher				Contact Name:				
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail		Memo		Other		
Comments:	Advised				Comments:				

Consultation with Divisions and/or Agencies

Division:	PF&R	Division:	Financial Planning
Contact Name:	Ruthanne Henry	Contact Name:	Filisha Jenkins
Comments:	Incorporated into DAF	Comments:	Incorporated into DAF

Legal Services Division Contact

Contact Name:	Soo Kim Lee
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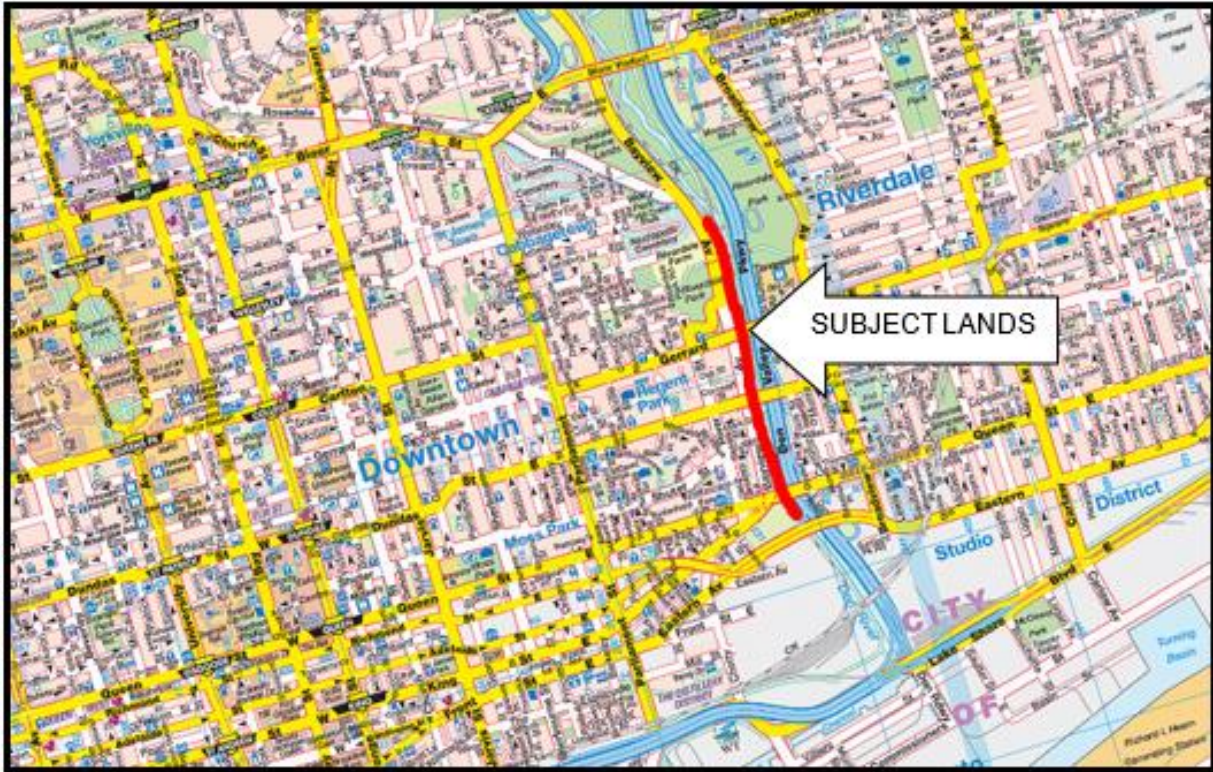
DAF Tracking No.: 2023-041	Date	Signature
<input checked="" type="checkbox"/> Recommended by: Acting Manager, Real Estate Services Leila Valenzuela	February 6, 2023	Signed by Leila Valenzuela
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Acting Director, Real Estate Services Vinette Prescott-Brown	February 6, 2023	Signed by Vinette Prescott-Brown

Appendix "A"

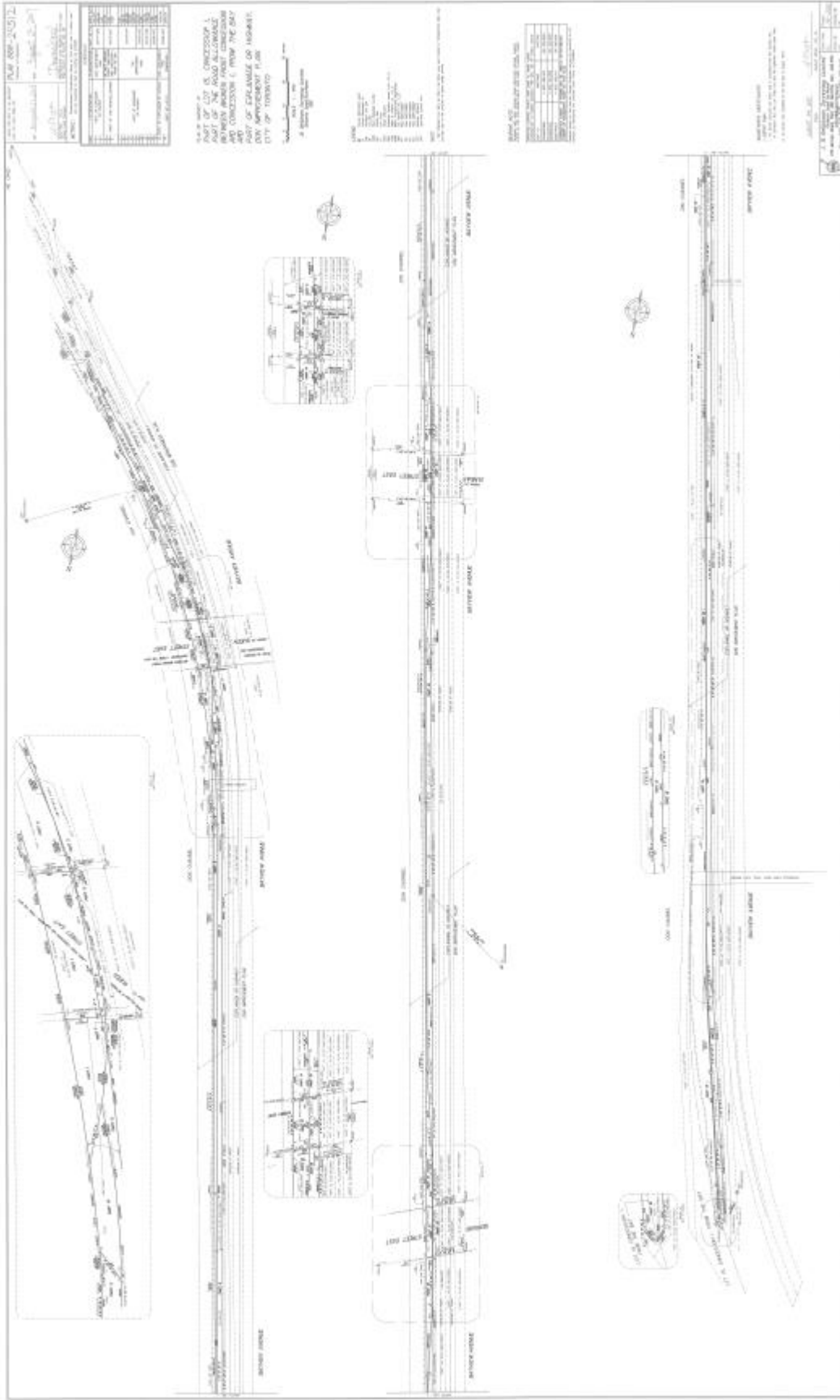
Major Terms

- Subleased Lands:** A portion of the City-owned Leased Lands, designated as Parts 2, 4, 8, 11, 12, 14 and 17 on Plan 66R-29512, and Part 1 on Plan 66R-32836 comprising approximately 1,494.8 square metres [16,090 sq. ft.] (the "Subleased Lands"), in "as is" condition.
- Minimum Rent:** Years 1 to 5: annual Minimum Rent shall be the sum of \$6,177.60 together with applicable taxes, and payable annually in full, in advance.
- Years 6 to 25: annual Minimum Rent to be reset every five (5) years after the initial five (5) years, shall be the rent for the preceding year plus the cumulative increase in the Ontario CPI Index as determined by Statistics Canada (or the equivalent) for the preceding five (5) years rounded to one decimal place together with applicable taxes, and payable annually in full, in advance.
- Extension Term:** Minimum Rent for the Extension Term shall be the then current market rent, to be negotiated no sooner than twelve (12) months prior to the expiry of the Initial Term (or Extension Term, as applicable), but in no event shall the Annual Minimum Rent for the Extension Term be less than the Minimum Rent for the last full twelve (12) calendar months preceding the start of such Extension Term.
- Additional Rent:** City as subtenant to pay all taxes, sums payable for supply of utilities and services; and all expenses incurred in respect of the Subleased Lands.
- Option to Extend:** Provided Subtenant: (i) is in occupation of the whole of the Subleased Lands; and (ii) is not then in default or has not been in default under this Agreement, (iii) Metrolinx does not require the Subleased Lands in connection with its rail corridor on the Leased Lands, Subtenant shall have option to extend the Term for further term of twenty-five (25) years, less one day, by giving Metrolinx not less than twelve (12) months' written notice.
- Permitted Use:**
- (a) widening the Don Trail to meet current City of Toronto standards, including the landings required for the staircases at Dundas Street and Gerrard Street (the "Trail Expansion");
 - (b) operating and maintaining the Trail Expansion once it is constructed;
 - (c) survey and monitor of Don River by the City of Toronto or their Invitees, with vehicles;
 - (d) access of infrastructure by utilities entities;
 - (e) access to bridge abutments;
 - (f) maintaining vegetation;
 - (g) installation of artwork along the Lower Don Trail and on bridges, with City of Toronto Park Access Agreements; and
 - (h) for infrastructure maintenance of municipal services.
- Improvements to Subleased Lands:** Changes, additions and improvements require Metrolinx prior written consent.
- Entry by Metrolinx:** With 30 days written notice, Metrolinx may close off portions of the Subleased Lands for public safety and to facilitate construction staging. Metrolinx has unrestricted access for emergency purposes, and may suspend or terminate the Sublease in an emergency.
- Early Termination:** Metrolinx has the right to terminate early, with at least six (6) months prior written notice: if City ceases to operate the Trail Expansion for a period of more than 6 consecutive months; if Metrolinx obtains approval from its Executive Management to use the Subleased Lands in connection with expansion of its rail corridor located on the Leased Lands.
- Environmental Matters:** The City to comply with all environmental laws re use, treatment, handling, clean-up and disposal of hazardous substances. The City has caused a Phase II Environmental Soil and Groundwater Assessment ("ESA") and Soil Compaction Assessment/Geotechnical Report ("SCA") to assess and record soil and ground water conditions of the Subleased Lands existing prior to Commencement Date. Upon completion of ESA and SCA reports, copies to be provided to Metrolinx. The City responsible for all hazardous substances brought or allowed onto the Subleased Lands and liable for clean-up and remediation of any hazardous substances the City is responsible for at law. These obligations survive expiry or earlier termination of the Sublease.
- Insurance:** City to maintain "all-risks" insurance and commercial general liability of not less than \$10 Million per occurrence, or such higher limits reasonably required by Metrolinx from time to time, with Metrolinx named as an additional insured.
- Indemnity & Release:** City to indemnify and release Metrolinx from any property damage, injury to any persons and users of the trail, including death, occurring in or about the Subleased Lands or the Improvements or the lands or streets adjacent thereto.
- Transfers:** No transfer, assignment, sublease without Metrolinx consent, which may be unreasonably and arbitrarily withheld.

Appendix "B": Location Map and R-Plans



Plan 66R-29512



Plan 66R-32836

