

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

TRACKING NO.: 2023-249

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

Prepared By:	Bruno Iozzo	Division:	Corporate Real Estate Management
Date Prepared:	September 12, 2023	Phone No.:	(416) 392-8151

Purpose	To obtain authority to enter into a licence agreement (the "Agreement") with Metrolinx to permit its authorized users, which in this instance only shall include Toronto Hydro-Electric System Limited ("THESL"), to temporarily access and use a portion of the the property municipally known as 2467 Eglinton Avenue East to construct certain hydro related improvements and works in connection with the Scarborough Subway Extension (the "Project").
Property	Portions of the property municipally known as 2467 Eglinton Avenue East and legally described as Part of Lots 4 and 5, Plan 1697; as in SC317369, except Part 1 on Plan 64R-6495 and Part 1 on Plan 66R-28272, subject to SC300826, Scarborough, City of Toronto, being part of PIN 06493-0248 (LT) (the "Property").
Actions	1. Authority be granted to enter into the Agreement with Metrolinx, substantially on the terms and conditions set out below, and on such other terms and conditions deemed appropriate by the approving authority herein, and in a form acceptable to the City Solicitor.
Financial Impact	<p>The City will collect a licence fee in the amount of \$351,657.18 plus applicable taxes. The revenues will be directed to the 2023 Council Approved Operating Budget for Corporate Real Estate Management under cost centre FA1495 and functional area code 3220200000.</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>
Comments	<p>On December 15, 2021, City Council adopted Item EX28.12 titled "Metrolinx Subways Program – Real Estate Protocol and Land Valuation Principles for Subways and GO Expansion Programs". Upon its adoption, the City and Metrolinx entered into an agreement dated June 16, 2022 that outlined the process for real estate transactions related to subway projects (the "Real Estate Protocol"). The Real Estate Protocol provides a clear process for the City and Metrolinx to follow relating to the acquisition, ownership and disposition of real property between the parties, both temporary and permanent interests, required for the Subways Program, which includes the Scarborough Subway Extension, the Ontario Line and the Yonge North Subway Extension.</p> <p>As a result of the Project, Metrolinx is overseeing the relocation of an existing THESL service onto the Property. Toronto Water has been consulted and have raised concerns regarding the offsets between its existing utility and the proposed THESL service, Metrolinx has advised that it intends to expropriate a permanent easement interest in the Property, and upon such expropriation assign the permanent easement interest to THESL.</p> <p>In the interim, to ensure that the Project is not delayed, the City has agreed to grant a temporary licence to Metrolinx that will allow THESL as its authorized user (in this instance only) to enter and utilize the Property to undertake the proposed hydro works associated with the Project. Notwithstanding the terms contained within the Agreement, the City is not precluded from exercising its rights pursuant to any expropriation proceedings under the <i>Expropriations Act</i>.</p> <p>The terms and conditions of the Agreement are substantially as provided in the Real Estate Protocol.</p> <p>The proposed licence fee and other major terms and conditions of the Agreement are considered to be fair, reasonable and reflective of market rates.</p>
Terms	Please see Appendix "A"

Property Details	Ward:	20 – Scarborough Southwest
	Assessment Roll No.:	1901 041 230 00201
	Approximate Size:	
	Approximate Area:	1,650 m 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:	Vacant					Councillor:									
Contact Name:	Mayor Chow					Contact Name:									
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	Mayor Chow was consulted					Comments:									

Consultation with Divisions and/or Agencies

Division:	Parks, Forestry & Recreation			Division:	Financial Planning		
Contact Name:	Kellie Spence			Contact Name:	Ciro Tarantino		
Comments:	Requested terms are contained within agreement			Comments:	Approved		

Legal Services Division Contact

Contact Name:	Luxmen Aloysius
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DAF Tracking No.: 2023-249	Date	Signature
<input checked="" type="checkbox"/> Recommended by: Manager, Real Estate Services Vnette Prescott-Brown	Sept 13, 2023	Signed By: Vnette Prescott-Brown
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Director, Real Estate Services Alison Folosea	Sept 13, 2023	Signed By: Alison Folosea

Appendix "A" – Major Terms and Conditions of the Agreement

Term:

One (1) year

Commencement Date:

Upon execution of the Agreement by both parties

Right to Extend:

Metrolinx shall have the unilateral right to extend the Licence for: (i) up to twelve (12) months from the expiry of the Term; or (ii) the earlier of the date on which the Expropriated Permanent Easement is vested in Metrolinx under the provisions of the *Expropriations Act* (Ontario) or December 31, 2024 (the "Extension Term"), on the same terms and conditions as contained in this Agreement, subject to providing the City with proper written notice and an extension term fee

Permitted Purpose:

All works and uses in connection with the construction of the Project, including, without limitation:

1. Exclusively to locate, relocate and/or energize various installations in the Licenced Area due to stations, rail and systems scope of the Program and Project

Authorized Users:

The employees, servants, agents, consultants, contractors, project companies authorized by Metrolinx (which includes THESL in this instance only), to use the Licensed Area from time to time during the Term of this Agreement

Metrolinx Covenants

1. Metrolinx accepts the Licensed Area in an "as is", "where is" condition and will not require the City to pay for or do any work, or supply any equipment or services, save and except as specifically provided in the Agreement (or as otherwise agreed upon in writing by the City and Metrolinx)
2. The City shall be permitted, subject to the approval of Metrolinx on a case-by-case basis, to carry out inspections of the Licensed Area as it deems reasonably necessary, and upon not less than seventy-two (72) hours' prior written notice to Metrolinx

Existing Rights Holders

Metrolinx acknowledges that the Agreement is subject to all leases, subleases, easements, licences, permits, rights of use or occupation or other rights of Existing Rights Holders

Removal and Restoration:

With the exception of the areas that will be acquired by Metrolinx on a permanent basis by way of a permanent easement on the expiry or early termination of the Agreements, Metrolinx shall repair at its own expense and to the satisfaction of the City, acting reasonably, all damage to the Property and improvements thereon caused by the use of the Property by Metrolinx or its Authorized Users (including THESL in this instance only) and shall restore the Property to substantially the same condition that the Property was in prior to the commencement of the Agreement

Indemnity and Insurance:

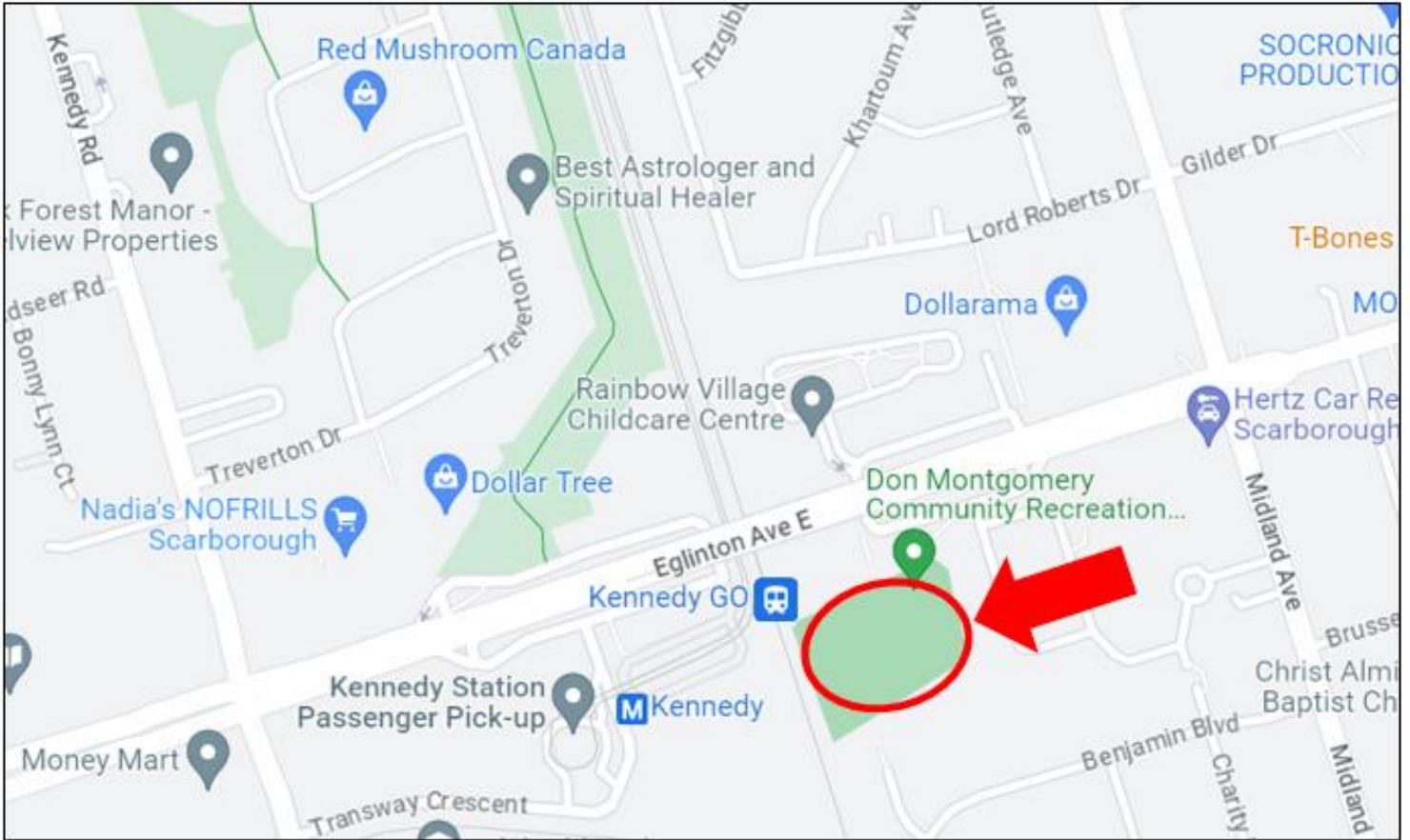
The parties agree that the provisions contained in Section P of the Real Estate Protocol will apply to the Agreement

Metrolinx Proposed Expropriation:

Metrolinx intends to expropriate a permanent easement of the Licensed Area for the Permitted Purpose for the Project (the "Expropriated Permanent Easement") and then upon such expropriation assign the Expropriated Permanent Easement to THESL.

Notwithstanding anything in the Agreement, Metrolinx is not precluded from commencing and completing expropriation proceedings and the City is not precluded from exercising its rights pursuant to any expropriation proceedings under the Expropriations Act and neither party is prejudiced with respect to its rights and obligations under the Expropriations Act.

Appendix "B" – Location Map



Appendix "C" – The Property



- PIN 06493-0248 approximately outlined in red
- Licensed Area approximately outlined in yellow dash