

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

TRACKING NO.: 2024-163

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:	October 7, 2024	Phone No.:	(416) 392-8151
Purpose	To obtain authority to enter into a licence extension and amending agreement with Metrolinx to permit Metrolinx to continue to temporarily use a portion of the City's lands to construct certain improvements and works in connection with the Scarborough Subway Extension (the "Amending Agreement").		
Property	Portions of the property municipally known as 705 McCowan Road and legally described as Parcel 7159, Section Scarborough Block A Plan M674 Except Part 2 of 66R3067; subject to A315165, subject to A19592, LT667497, Scarborough, City of Toronto, being part of PIN 06278-0085 (LT) (the "Property") as shown on the Location Map attached as Appendix "B" and the Property Sketch attached as Appendix "C".		
Actions	1. Authority be granted to enter into the Amending Agreement with Metrolinx, substantially on the major terms and conditions set out in Appendix "A", 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 collected a licence fee in the amount of \$12,329.00 plus HST as part of the initial agreement between both parties. The City and Metrolinx have since agreed that the licence fee for the initial agreement should have been \$4,020.00 plus HST per annum (creating a surplus of \$8,309.00 plus HST). Given the surplus, the City will collect the following amounts for the Extension Term: Year 1 = \$0; Year 2 = \$0; Year 3 = \$3,751.00 plus HST; Year 4 = \$4,020.00 plus HST; Year 5 = \$4,262.00 plus HST (total of \$12,033.00 plus HST). Should Metrolinx exercise its subsequent option to extend the term of the Agreement, the subsequent extended term licence fee shall be the annual licence fee payable during the preceding year increased annually based on the annual average rate of the Consumer Price Index (CPI) applicable to the City of Toronto of the preceding year.</p> <p>The revenues will be directed to the 2024 Operating Budget for Parks, Forestry and Recreation under cost centre P00147 and functional area code 1820100000.</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>By an agreement dated July 19, 2023, the City allowed Metrolinx to construct certain improvements and works in connection with the Scarborough Subway Extension (the "Project") on the Property (the "Original Agreement"). The City obtained authority to enter into the Original Agreement via DAF No.2023-188. The Original Agreement provided Metrolinx with an option to extend the term for a period of up to four (4) years. Metrolinx has contacted the City and requested a five (5) year extension with an option to extend the term for a further period of up to three (3) years. The City has agreed to the requested additional terms to ensure that Metrolinx is able to complete all proposed works and improvements on the Property.</p> <p>The proposed licence fee and other major terms and conditions of the Amending Agreement are considered to be fair, reasonable, and reflective of market rates.</p> <p>On June 26th, 2024, City Council authorized staff report EX15.2 titled "Priorities in Transit Expansion and Transit-Oriented Communities Projects". The report contained a recommendation that required Metrolinx to provide the City with certain information prior to completing any further real estate transactions involving City lands. The Transit Expansion (TE) Division has confirmed that the Ward Councillor is comfortable proceeding with this land transaction based on the information provided by Metrolinx about its mitigation efforts related to construction impact to residential tenants and businesses. Therefore, TE confirms that Metrolinx has satisfied the conditions set out in EX15.2 relating to the Property.</p>		
Terms	Please see Appendix "A".		
Property Details	Ward:	24 – Scarborough-Guildwood	
	Assessment Roll No.:	1901 052 010 08500	
	Approximate Size:		
	Approximate Area:	415 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/REOs:</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/Licensor):</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 checked="" 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/REOs.</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 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:	Paul Ainslie	Councillor:	
Contact Name:	Antonette DiNovo – Chief of Staff	Contact Name:	
Contacted by:	Phone <input type="checkbox"/> X <input checked="" type="checkbox"/> 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:	No objections	Comments:	

Consultation with Divisions and/or Agencies

Division:	Parks, Forestry & Recreation / Transit Expansion	Division:	Financial Planning
Contact Name:	Kellie Spence / Antonella Nicaso	Contact Name:	Ciro Tarantino
Comments:	No concerns / Confirmed compliance with EX15.2	Comments:	No concerns

Legal Services Division Contact

Contact Name: Michelle Xu

DAF Tracking No.: 2024-163	Date	Signature
Concurred with by: Manager, Real Estate Services Niall Robertson	October 9, 2024	Signed By: Niall Robertson
<input type="checkbox"/> Recommended by: Manager, Real Estate Services Vinette Prescott-Brown	October 9, 2024	Signed By: Vinette Prescott-Brown
<input checked="" type="checkbox"/> Approved by:		
<input type="checkbox"/> Approved by: Director, Real Estate Services Alison Folosea		

Appendix "A" – Major Terms

Extension Term

5 Years (commencing on July 20, 2024, and expiring on July 19, 2029)

Subsequent Extension

Metrolinx shall have the unilateral right to extend the licence for a further period of up to three (3) years from the expiry of the Extension Term (the "Subsequent Extension Term"), on the same terms and conditions as contained in the Original Agreement, except for the Subsequent Extension Licence Fee and there is no further option to extend. This option is exercisable by delivery of no less than 6 months of prior written notice to the City.

Tiebacks

Metrolinx agrees to remove any tiebacks from the Property which are less than two (2) metres in depth from grade and to destress (either naturally or manually) any tiebacks within the Property which are greater than two (2) metres in depth from grade prior to the end of the term, as may be extended, at Metrolinx's sole expense. This requirement does not apply to any portion(s) of lands to be acquired by Metrolinx by way of fee simple acquisition or permanent easement transfer prior to the end of the term, as extended.

Licence Fee

\$4,020.00 plus HST per annum from July 19, 2023, to July 19, 2028

\$4,262.00 plus HST per annum from July 20, 2028, to July 19, 2029

Subsequent Extension Licence Fee

The Subsequent Extension Licence Fee is calculated as the annual Licence Fee payable during the last year of the preceding licence year adjusted annually by the annual average rate of CPI of the preceding calendar year and effective as of July 20th of the adjusted licence year.

License Fee Credit

The parties agree that the License Fee of \$12,329.00 (plus HST) paid by Metrolinx and received by the City for the term commencing on July 19, 2023, and expiring on July 19, 2024, has been renegotiated to a reduced value of \$4,020.00 per annum, plus HST, resulting in a credit to Metrolinx for the overpayment in the amount of \$8,309.00 plus HST (the "License Fee Credit"). The License Fee Credit shall be applied to the first, second and third year of the Extension Term, such that the Extension Term License Fee for the first two years of the Extension Term (i.e. July 20, 2024 to July 19, 2026) shall be reduced to NIL and \$3,751.00 plus HST for the third year of the Extension Term.

Appendix "B" – Location Map



**Appendix "C" – The Property Sketch
(Parts 1, 2, 4, 5, 6 and 7)**

