

**DELEGATED APPROVAL FORM
CHIEF CORPORATE OFFICER
DIRECTOR OF REAL ESTATE SERVICES**

TRACKING NO.: 2017-154

- Approved pursuant to the Delegated Authority contained in Executive Committee Item EX43.7 entitled "Delegation of Authority in Certain Real Estate Matters" adopted by City Council on May 11 and 12, 2010 (Confirmatory By-law No. 532-2010, enacted on May 12, 2010), as amended by GM24.9 entitled "Minor Amendments to Delegation of Authority in Certain Real Estate Matters" adopted by City Council on October 8, 9, 10 and 11, 2013 (Confirmatory By-Law No. 1234-2013, enacted on October 11, 2013), as amended by DAF 2013-307 and DAF 2014-087; and further amended by EX44.22 entitled "Strategic Property Acquisitions" adopted by City Council on August 25, 26, 27 and 28, 2014 (Confirmatory By-law No.1074-2014, enacted on August 28, 2014), and further amended by GM16.16 entitled "Transit Shelter Property Acquisitions" adopted by City Council on December 13, 14 and 15, 2016 (Confirmatory By-Law No. 1290-2016, enacted on December 15, 2016).
- Approved pursuant to the Delegated Authority contained in Executive Committee Item EX33.44 entitled "Union Station Revitalization Implementation and Head Lessee Selection" adopted by City Council on August 5 and 6, 2009. City Council confirmatory By-law No. 749-2009, enacted on August 6, 2009.

Prepared By:	Vinkie Lau	Division:	Real Estate Services
Date Prepared:	May 25,2017	Phone No.:	416-392-3891

Purpose	To obtain authority for the City to amend the lease dated November 25, 1994 (the "Lease") entered into between The Parking Authority of Toronto, as landlord (now the "Toronto Parking Authority"), The City of Toronto Non-Profit Housing Corporation, as tenant (now "Toronto Community Housing Corporation"), and The Corporation of the City of Toronto, as owner (now the "City of Toronto"), to: (i) remove references in the Lease to the requirement of obtaining Ministry of Housing consent or approval, as well as other references to the "Ministry of Housing", and (ii) substitute the "Ministry of Housing" with the "City of Toronto" in its capacity as service manager whenever required pursuant to subsection 162(2) of the <i>Housing Services Act, 2011</i> as the same may be amended or superseded from time to time as the consenting authority in certain situations where the tenant seeks to extend, modify, renew or replace its initial leasehold mortgage, as further set out in Schedule "A".
Property	The leased premises municipally known as 15 and 32 Larch Street and 76 Grange Avenue, Toronto (formerly described in the Lease as 7-20 Larch Street and 74, 78 and 80 Grange Avenue, Toronto, Ontario), and as shown on the Location Map and Aerial Map attached hereto as Schedule "B" (the "Property").
Actions	<ol style="list-style-type: none"> 1. Authority be granted to enter into a lease amending agreement to amend the Lease to: (i) remove references to the requirement of obtaining Ministry of Housing consent or approval, as well as other references to the "Ministry of Housing", and (ii) substitute the "Ministry of Housing" with the "City of Toronto" in its capacity as service manager under the <i>Housing Services Act, 2011</i> as the consenting authority in certain situations where the tenant seeks to extend, modify, renew or replace its initial leasehold mortgage, as further set out in Schedule "A", and on such other or amended terms as deemed appropriate by the Chief Corporate Officer (the "CCO"), and in a form acceptable to the City Solicitor; 2. The CCO or her designate shall administer and manage the lease amending agreement, including the provision of any consents, approvals, waivers, notices, and notices of termination, provided that the CCO may, at any time, refer consideration of such matters to City Council for its determination and direction; and 3. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.
Financial Impact	<p>There is no financial impact.</p> <p>The Deputy City Manager & Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>Pursuant to Executive Committee Report No. 11, Clause 34, City Council at its meeting on June 21 and 22, 1993 authorized the basic terms of the Lease, which basic terms including the requirement that the Lease be subject to the tenant receiving necessary funding from the Ministry of Housing. The City Solicitor was instructed to prepare the lease utilizing the standard form of social housing ground lease, authorized by City Council in Executive Committee Report No. 8, Clause 23 as amended and adopted by City Council at its meeting held on February 24 and 25, 1992, and to incorporate the additional basic terms set out in ECR No. 11, Cl. 34, and such other reasonable amendments as necessary to give effect to the arrangements at this site.</p> <p>On March 28 and 29, 1994, City Council adopted a number of amendments to the basic terms of the Lease, as outlined in Executive Committee Report No. 10, Clause 6.</p> <p>The Lease contains certain provisions that require Ministry of Housing consent, approval and/or input, including in certain situations when the tenant seeks to extend, modify, renew or replace its leasehold mortgage.</p>

The housing project constructed at the Property was developed under the 1986-1993 – Federal/Provincial Non-Profit Housing Program, which was a federal/provincial cost-sharing program to provide housing for people with low and moderate incomes.

On December 22, 1993 the Ministry of Housing granted approval to provide City of Toronto Non-Profit Housing Corporation funding to construct the project; one of the conditions was "receipt of an executed ground lease acceptable to the Ministry of Housing".

Her Majesty the Queen in Right of the Province of Ontario as represented by the Minister of Housing (the "Minister") and City of Toronto Non-Profit Housing Corporation entered into a Project Operating Agreement dated April 5, 1994 (the "POA"). The Minister entered into the POA on behalf of Canada and Ontario pursuant to authority contained in section 4 of the *Ministry of Municipal Affairs and Housing Act*, R.S.O. 1990, M.30 and section 2 of the *Housing Development Act*, R.S.O. 1990 c. H.18. Section 11.1 of the POA required ministerial consent to mortgaging the Property.

The *Social Housing Reform Act*, 2000, S.O. 2000, c.27 (the "SHRA") was proclaimed in 2001. The POA was terminated under section 91 of the SHRA. Once terminated, Part VI of the SHRA applied to the housing providers and their housing project.

Part VI, Section 95(3) of the SHRA required the Minister's consent to any mortgage:

- (3) A housing provider shall not mortgage, replace an existing mortgage or otherwise encumber the housing project, or extend the term of or otherwise amend any existing or approved mortgage or other encumbrance of the housing project, unless,
 - (a) it does so in compliance with such rules as may be prescribed; or
 - (b) the Minister has given his or her prior written consent.

On January 1, 2012, the SHRA was repealed and replaced by the *Housing Services Act*, 2011, S.O. 2011, c.6, Sched. 1 (the "HSA"). Subsection 162(2) of the HSA requires a service manager's consent to a mortgage:

- (2) The housing provider may transfer or mortgage the housing project or the land where it is located only with the written consent of the service manager in whose service area the housing project is located.

Under the HSA, the City of Toronto is the service manager for social housing located within the City's boundaries.

Toronto Community Housing Corporation is refinancing its leasehold interest in the Property and is obtaining a new first mortgage with Infrastructure Ontario ("IO").

Pursuant to Executive Committee Item EX20.15, adopted by City Council at its meeting on December 13, 14 and 15, 2016, City Council: (i) in its capacity as Shareholder to Toronto Community Housing Corporation approved the refinancing totalling \$310 Million for the renewal of 32 Toronto Community Housing Corporation's mortgages; of which this Property comprises one of the 32 mortgages being refinanced, and (ii) consented to the mortgage, in its capacity as service manager under the *Housing Services Act*, 2011.

In response to an inquiry from City Legal, on May 16th 2017 the Director, Housing Funding and Risk Management Branch for the Ministry of Housing confirmed that there is no legislative authority requiring the Ministry of Housing to consent to a mortgage. The requirement contained in the Lease was a contractual provision entered into by the parties to the Lease and not with the Ministry of Housing. The Director suggested that the parties amend the Lease.

As part of IO's due diligence as lender, IO requested an amendment of the Lease as before agreeing to advance funds. The execution of this lease amending agreement would also clear up potential future ambiguities with the Lease.

Terms

See Terms in Schedule "A".

Property Details

Ward:	20 – Trinity – Spadina
Assessment Roll No.:	1904-06-5-250-02050
Approximate Size:	113.68 ft. x 86.78 ft.
Approximate Area:	9764.26 sq. ft.
Other Information:	

A.	Director of Real Estate Services has approval authority for:	Chief Corporate Officer has approval authority for:
<p>1. Acquisitions:</p> <p>2. Expropriations:</p> <p>3. Issuance of RFPs/REOs:</p> <p>4. Permanent Highway Closures:</p> <p>5. Transfer of Operational Management to ABCDs:</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: N/A</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 \$1 Million.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.</p> <p>Delegated to a more senior position.</p> <p>Delegated to a more senior position.</p> <p>Delegated to a more senior position.</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>Delegated to a more senior position.</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 three (3) months, including licences for environmental assessments and/or testing, etc.</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 road, 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 may include increase not to exceed the amount of the original decision by the lesser of 10 per cent and \$500,000).</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/Estoppels/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>	<p><input type="checkbox"/> Where total compensation does not exceed \$3 Million.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$3 Million.</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><input type="checkbox"/> Transfer of Operational Management to ABCDs.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$3 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$3 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 \$3 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><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$3 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$3 Million.</p> <p>Delegated to a less senior position.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$3 Million.</p> <p><input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and may include increase not to exceed the amount of the original decision by the lesser of 10 per cent and \$1 Million).</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/Estoppels/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. Chief Corporate Officer and Director of Real Estate Services each has signing authority on behalf of the City for:

- 1. Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.
- 2. Expropriation Applications and Notices following Council approval of expropriation.
- 3. Documents required to implement the delegated approval exercised by him or her.

Chief Corporate Officer also has approval authority for:

- Leases/licences/permits at Union Station during the Revitalization Period, if the rent/fee is at market value.

Consultation with Councillor(s)											
Councillor:		Joe Cressy				Councillor:					
Contact Name:		Raymond Ngu				Contact Name:					
Contacted by:		Phone	E-Mail	Memo	Other	Contacted by:		Phone	E-mail	Memo	Other
Comments:		Consent				Comments:					
Consultation with ABCDs											
Division:		Toronto Parking Authority				Division:		Toronto Community Housing Corporation			
Contact Name:		Gregory Blyskosz				Contact Name:		Valesa Faria			
Comments:		Consent				Comments:		Consent			
Legal Division Contact											
Contact Name:		Shirley Chow									
DAF Tracking No.: 2017- 154					Date		Signature				
Recommended by: Manager, Wayne Duong					May/31/2017		Sgd.\ Wayne Duong				
<input checked="" type="checkbox"/>	Recommended by: Director of Real Estate Services Joe Casali				June/1/2017		Sgd.\ Joe Casali				
<input type="checkbox"/>	Approved by:										
<input checked="" type="checkbox"/>	Approved by: Chief Corporate Officer Josie Scioli				June/1/2017		Sgd.\ Josie Scioli				

General Conditions ("GC")

- (a) The local Councillor (or local Councillors if the subject property is located on a ward boundary or if the transaction involves an exchange of properties in more than one ward), will be consulted prior to the exercise of delegated Approving Authority by staff for all Acquisitions, Disposals, Land Exchanges and Leases.
- (b) Where approving power has been delegated to staff, the Chief Corporate Officer, in consultation with the applicable Deputy City Manager or the City Manager, may determine that such matter is of such special interest that same should be returned to the relevant Committee and Council for consideration and determination.
- (c) Exercise of delegated authority is subject to all applicable Council policies, statutes or other applicable law.
- (d) Authority to approve financial commitments/expenditures is subject to all amounts being available in an approved budget, or funding being available from third party sources, except for "Strategic Property Acquisitions" as set out in EX44.22 adopted by Council August 25, 26, 27 and 28, 2014, which identifies alternative funding mechanisms subject to additional approval requirements.
- (e) Property interests are to be based on appraised value, and no interest shall be granted at less than market value unless otherwise specifically authorized.
- (f) Authority to approve transactions at less than market value is subject to statutory anti-bonusing provisions.
- (g) Total compensation means the aggregate of all types of payments, including land value, estimated clean-up costs, potential arbitration awards, loss claims, etc, but exclusive of any applicable taxes and registration costs.
- (h) Authority to acquire property is conditional upon provision being made to bring the property into compliance with applicable MOE or other requirements such that it will be fit for its intended municipal purpose, except for property acquisitions of 50M² or less for transit shelter purposes.
- (i) Authority to initiate the permanent road closure process in **A.4** is conditional upon confirmation by the GM of Transportation Services that it is feasible to permanently close the highway.
- (j) Disposal authorities in **A.7** are subject to the property having been declared surplus, and the disposal policy complied with.
- (k) Land exchanges, except for those in **A.8**, may be authorized based on the delegated Approving Authority for Disposals in **A.7**.
- (l) Approving Authority with respect to land located in the Designated Waterfront Area is conditional upon the approval of the Director, Waterfront Secretariat.
- (m) Authority to approve an exchange of land in **A.8** is conditional upon confirmation by the Chief Planner and Executive Director, and the GM of Parks, Forestry & Recreation, that the land being exchanged is (i) nearby land of equivalent or larger area, and (ii) of comparable or superior green space utility.
- (n) Approving Authority in **A.9** Leases (City as Landlord) but not Licences (City as Licensor) is limited to periods (including options/renewals) of less than twenty-one (21) years.
- (o) Total compensation in leasing matters where the City is landlord (**A.9**) includes the value of tenant improvements if factored into tenant's rental payments.
- (p) Total compensation in leasing matters where the City is the tenant (**A.10**) includes the value of any tenant improvements to be paid by the City.
- (q) Where options/renewals are included in leases, if the renewal rent is to be determined at a date later than the original approval date, total compensation is to be calculated as though all options are exercised, estimating the renewal rent based on the highest rent payable in the first term of the lease.
- (r) Total compensation in leasing matters where the City is landlord (**A.9**) or tenant (**A.10**) is to be calculated from the date of approval pursuant to this delegation (ie. first allowing for the expiry of any prior approvals, whether by Council or a delegated authority).
- (s) Approving Authority in leasing matters includes authority to approve renewals/extensions within the parameters of the delegated Approving Authority.
- (t) Approving Authority includes authority for amendments within the parameters of the delegated Approving Authority, the cumulative total of which may not exceed the delegated financial limit.
- (u) Where proposed additional amounts in **A.13** exceed 10 per cent of the original decision, even if otherwise in compliance with all other conditions, then approving authority is transferred upwards to the next more senior level of approving authority having the relevant overall financial limit.
- (v) Approving Authority includes authority for all documents necessary to implement the authority, on terms and conditions satisfactory to the Approving Authority, in consultation with the relevant operating Division(s).
- (w) Staff positions referred to in this delegation include successors from time to time.
- (x) Documents are to be in a form satisfactory to the City Solicitor (including indemnity and insurance provisions).
- (y) Delegated signing authorities in **B** are conditional upon the documents having received the City Solicitor's prior "Approval as to Form".
- (z) This delegation does not affect sales, acquisitions and leases over which the Affordable Housing Committee has responsibility.
- (aa) Authority to use land acquired by the City for parking purposes by the Toronto Parking Authority is conditional upon Council enacting a by-law designating such use.
- (bb) All residential leasing documents shall adhere to the *Residential Tenancies Act* and any successor legislation.
- (cc) Despite GC(n), Approving Authority in residential leasing matters is not limited to periods of less than twenty-one (21) years.

Schedule "A"

Terms

Amendments to the Lease:

The Lease be amended as follows:

1. Section 1.01(xvi) shall be amended by deleting the words "as such drawings may be amended from time to time with the consent of the Ministry of Housing" in the second and third lines thereof and the words "consented to by the Ministry of Housing, and" from the fifth and sixth lines thereof.
2. Section 1.01(xviii) shall be amended by deleting the words "the Ministry of Housing" from the fifth line thereof.
3. Section 1.01(xxv) shall be amended by deleting the words "with the consent of the Ministry of Housing, the amount of said advance having been approved by the Ministry of Housing" from the fifth, sixth and seventh line thereof.
4. Section 1.01(xxx) shall be amended by deleting the words "the Ministry of Housing" from the eighth line thereof.
5. Section 6.04 shall be amended by deleting the sentence "Notwithstanding the above, whenever the Ministry of Housing requires a deductible amount for any policy of insurance to be obtained by the Tenant which is lower than that which the Landlord may require, then the deductible shall be that required by the Ministry."
6. Section 7.06(f) shall be amended by deleting the words "but in any event no more frequently than as required by the Ministry of Housing" from the second and third lines thereof.
7. Section 7.06(g) shall be amended by deleting the words "but in any event no more frequently than as required by the Ministry of Housing" from the second and third lines thereof.
8. Section 11.01(b) shall be amended by deleting the words "Ministry of Housing" and replacing them with the "City of Toronto, as service manager whenever required pursuant to subsection 162(2) of the *Housing Services Act, 2011* as the same may be amended or superseded from time to time" in the sixth line thereof.
9. Section 11.02(d) (ii) (4) shall be amended by deleting the words "and which meets the requirements of the Ministry of Housing. The Initial Leasehold Mortgagee shall provide with said offer an agreement in writing from the Province of Ontario through Ministry of Housing or its successor to provide an Operating Agreement to the Assignee on the same terms and conditions as the Operating Agreement with the original Tenant." from the third, fourth, fifth, sixth, seventh, eighth and ninth lines thereof.
10. Section 11.02(d)(ii)(5) shall be amended by deleting the words "If the Offer in clause (4) above is accepted by the Landlord, the Province of Ontario through the Ministry of Housing or its successor will provide an Operating Agreement on the same terms and conditions as the original Operating Agreement between the Tenant and the Province." from the first, second, third, fourth and fifth lines thereof.
11. Section 18.01 shall be amended by deleting the words "the Ministry of Housing" from the seventh line thereof.

Appendix B

Location Map & Aerial Map

