

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

TRACKING NO.: 2015- 200

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 (City Council 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 (City Council confirmatory By-Law No. 1234-2013 enacted October 11, 2013), as amended by DAF 2013-307 and DAF 2014-087.

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:	Kendra FitzRandolph	Division:	Real Estate Services
Date Prepared:	August 18 th , 2015	Phone No.:	(416) 397-7160

Purpose
To obtain authority to renew the Licence Agreement (the "Licence") for a term of three (3) years with the University of Toronto (the "Licensee") for the outdoor patio and garden areas at the northwest corner of Nathan Phillips Square, 100 Queen Street West, for approximately 986.40 square feet (91.64 square metres) of total licensed area, comprising of a patio of approximately 674.40 square feet (62.65 square metres) and a garden area of approximately 312 square feet (28.99 square metres), commencing on April 1, 2015 and expiring on March 31, 2018

Property
A portion of the property municipally known as 100 Queen Street West, Ward No. 27 (Toronto Centre – Rosedale) as shown on Schedule "A" Site Map on Page 5 as well as Schedule "B" Aerial Location

Actions

1. authority be granted for the City to renew the Licence with the University of Toronto for the outdoor patio and garden areas at the north-west corner of Nathan Phillips Square, 100 Queen Street West, on terms and conditions herein, and on such other terms and conditions deemed appropriate by the Chief Corporate Officer, and in a form acceptable to the City Solicitor;
2. the Chief Corporate Officer or designate shall administer and manage the Licence including the provision of any consents, approvals, waivers, notices and notices of termination provided that the Chief Corporate Officer may, at any time, refer consideration of such matter 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
The City will receive a total of \$24,004 (net of HST) in revenue from the University of Toronto for the extended three (3) year term. The University of Toronto has paid the first year licence fee of \$7,614.00 (net of HST) plus legal administration fees of \$482.20 (net of HST) upon signing of the renewal proposal letter. The revenues for each year are as follows: Year 1: \$7,614.00, Year 2: \$7,995.00 and Year 3: \$8,395.00 (plus all operating costs and taxes.)

The Deputy City Manager & Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.

Comments
City Council, at its meeting held on May 21, 1996, approved a Licence with Singdeer Investments Ltd., operating as the Toronto Colony Hotel to construct a patio at the northwest corner of Nathan Phillips Square for three (3) year term. The Toronto Colony Hotel deferred construction of the patio until the spring of 1997. Due to this delay, the former City of Toronto Board of Management at its meeting held on May 1, 1997 approved a shorter term Licence of two (2) years which expired on March 31, 1999. The licence fee was \$2,500.00 per annum plus all operating costs and taxes.

(Continued on Page 4)

Terms
(Major terms and conditions of the Licence are continued on page 4)

Property Details	Ward:	Ward No. 27 (Toronto Centre – Rosedale)
	Assessment Roll No.:	1904-06-6-100-03300
	Approximate Size:	N/A
	Approximate Area:	A patio of 674.40 square feet (62.65 square metres) and a garden area of 312 square feet (28.99 square metres)
	Other Information:	N/A

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/REOIs:</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:</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 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 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/REOIs.</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 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.

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:	Kristyn Wong-Tam					Councillor:				
Contact Name:	dsimor@toronto.ca					Contact Name:				
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail	Memo	Other	Contacted by:	Phone	E-mail	Memo	Other
Comments:	No comments					Comments:				
Consultation with ABCDs										
Division:	City Financial Planning					Division:				
Contact Name:	Filisha Mohammed					Contact Name:				
Comments:	No comments					Comments:				
Legal Division Contact										
Contact Name:	Soo Kim Lee									
DAF Tracking No.: 2015- 200			Date			Signature				
Recommended by: Wayne Duong Manager, Real Estate Services			Sept 24, 2015			Sgd./ Wayne Duong				
<input checked="" type="checkbox"/>	Recommended by: Director of Real Estate Services Joe Casali			Oct 9, 2015			Sgd./ Joe Casali			
<input type="checkbox"/>	Approved by: Chief Corporate Officer Josie Scioli						X			

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 is available from alternative sources].
- (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.
- (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.

Comments (Continued)

The City approved on March 29, 1999 via Delegated Approval Form, Tracking No. 99-047, a renewal of the Licence for three (3) years commencing April 1, 1999 and expiring on March 31, 2002. The licence fee was \$2,625.00 for the first year with a five percent (5%) increase for each subsequent year (plus all operating costs and taxes.)

By Delegated Approval Form (Tracking No. 2002-076), the City approved the renewal of a three year (3) Licence with the annual licence fees at \$3,720.00 in year 1; \$3,906.00 in year 2 and \$4,101.00 in year three plus all applicable taxes and costs relating to the licensed area. Each party held the right also to terminate the Licence upon giving ninety (90) days prior written notice to the other.

In anticipation of a sale of its interest in the Toronto Colony Hotel at the request of Singdeer Investments Limited, the City via Delegated Authority (Tracking No. 2003-051), consented to the assignment of the Licence from Singdeer to the purchaser, the University of Toronto,

By Delegated Approval Form (Tracking No. 2005-005), the licence was renewed for a further term of three (3) years commencing on April 1, 2005 and expiring on March 31, 2008 with the annual licence fees at \$4,306.00 in year 1; \$4,351.00 in year 2 and \$4,481.00 in year 3 .

The City Council on July 15, 16 and 17 2008 approved GM16.12, which authorized a one year (1) renewal of the Licence commencing on April 1, 2008 and expiring on March 31, 2009 with the annual licence fee at \$4,930.00 net plus GST.

By DAF No. 2009-097 on September 1, 2009, a three year (3) renewal was approved at an annual licence fee of \$5,177.00 in year 1; \$5,436.00 in year 2 and \$5,708.00 in year 3 plus all applicable taxes.

By DAF No. 2012-181 on July 6, 2012, a three year (3) renewal was approved at an annual licence fee of \$6,279.00 in year 1; \$6,593.00 in year 2 and \$6,922.00 in year 3, plus all applicable taxes.

The three-year (3) renewal term expired on March 31, 2015 and the Licensee wishes to renew. As a result of negotiations, the Licence will be renewed for 3 years at an annual Licence fee of \$7,614.00 in year 1; \$7,995.00 in year 2; and \$8,395.00 in year 3, plus all applicable taxes. The Licensee is also required to improve the landscaping, at its sole expense, as requested by the City's Nathan Phillip Square Redevelopment Project team, in accordance with plans and specifications to be approved by the City.

Licensee is not in default of its obligation under the terms of the Licence. The licence fee and other terms and conditions of the Licence reflect current market value according to market research and valuation conducted by Real Estate Services staff.

Terms (Continued)Licensed Area:

A patio area of 674.40 square feet (62.65 square metres) and a garden area of 312.00 square feet (28.99 square metres)

Licensee: University of Toronto

Renewal Term: Three years commencing on April 1, 2015 and ending on March 31, 2018.

Renewal rights: No further right of renewal.

Basic Licence Fee: The annual basic licence fee was agreed at \$7,614.00 in year 1; \$7,995.00 in year 2 and \$8,395.00 in year 3, plus all applicable taxes, reflecting a 5% annual incremental increase.

Early Termination: The City has the right to terminate the Licence at any time, for any reason whatsoever, upon giving 30 days' prior written notice to the Licensee.

Use: To use: (1) the Patio Area for the sole purpose of outdoor seating and serving for the Licensee's restaurant situate in the building known municipally as 89 Chestnut St.; and (2) the Garden Area solely as landscaped garden space, and for no other purposes whatsoever.

Insurance: Comprehensive public liability insurance shall not be less than Two Million Dollars (\$2,000,000.00) per occurrence.

Additional Fees:

Operating Costs: Licensee pays

Utilities: Licensee pays

Property Taxes: Public educational institutions exemption. (Assessment Act R.S.O., 1990, c. A.31, 3. (1) s.4)

Licensee's Work: The Licensee shall improve landscaping, at its sole expense, on a date as required by the Chief Corporate Officer, in consultation with the City's Nathan Phillip Square Redevelopment Project team, and in accordance with detailed plans and specifications to be approved by the City.

Capital Repair and Maintenance: The Licence is a completely carefree net licence to the City.

Management Fee: N/A

SCHEDULE "A"
Site Map

Site 



SCHEDULE "B"
Aerial Location

Site 

