

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

TRACKING NO.: 2017-249

- 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:	Van Hua	Division:	Real Estate Services
Date Prepared:	October 4, 2017	Phone No.:	416 338 9572

Purpose	To obtain authority for the City to: (i) consent to the assignment of the Ground Lease (as defined on page 4) of the City-owned lands at 123 Queen Street West, Toronto, from the current tenant, 1367357 Alberta ULC, in its capacity as general partner of Sheraton Centre Toronto Limited Partnership (the "Assignor") to BSREP II Hospitality Toronto GP Inc., in its capacity as general partner of BSREP II Hospitality Toronto L.P. (the "Assignee"), and (ii) enter into a ground lease acknowledgement agreement with the Assignee and the Assignee's mortgagee, Wells Fargo Bank, N.A., Canadian Branch, as administrative agent for a syndicate of lenders (the "Mortgagee") to consent to the Assignee's leasehold mortgage with the Mortgagee.
Property	The lands municipally known as 123 Queen Street West, Toronto, as described in Appendix "A" (the "Property").
Actions	<ol style="list-style-type: none"> 1. Authority be granted for the City to enter into the: (i) Assignment of Lease and Landlord's Consent and (ii) Ground Lease Acknowledgment Agreement (collectively the "Agreements"), on the terms and conditions set out herein and on such other or amended terms and conditions as may be satisfactory to the Chief Corporate Officer ("CCO"), and in a form satisfactory to the City Solicitor. 2. The CCO or her designate shall administer and manage the Agreements and the Ground Lease, 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; 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	See page 4.
Terms	<p>Same terms and conditions as stated in the Ground Lease (as defined on page 4).</p> <ul style="list-style-type: none"> • The ground lease dated August 19, 1968 has a term of ninety-five (95) years, commencing on June 1, 1973 and expiring May 31, 2068. • Assignor has the right to assign the Ground Lease with Landlord's consent, such consent not to be unreasonably withheld. • Tenant is responsible for repair and maintenance of the structures on site.

Property Details	Ward:	28 – Toronto Centre Rosedale
	Assessment Roll No.:	1904-06-3-120-00200
	Approximate Size:	
	Approximate Area:	12,504 m ² (134,595 ft ²)
	Other Information:	

A.	Director of Real Estate Services has approval authority for:	Chief Corporate Officer has approval authority for:
1. Acquisitions:	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
2. Expropriations:	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$3 Million.
3. Issuance of RFPs/REOs:	Delegated to a more senior position.	<input type="checkbox"/> Issuance of RFPs/REOs.
4. Permanent Highway Closures:	Delegated to a more senior position.	<input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.
5. Transfer of Operational Management to ABCDs:	Delegated to a more senior position.	<input type="checkbox"/> Transfer of Operational Management to ABCDs.
6. Limiting Distance Agreements:	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
7. Disposals (including Leases of 21 years or more):	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan: N/A	Delegated to a more senior position.	<input type="checkbox"/> Exchange of land in Green Space System and Parks and Open Space Areas of Official Plan.
9. Leases/Licences (City as Landlord/Licensor):	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$1 Million; <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.	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$3 Million; <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.
10. Leases/Licences (City as Tenant/Licensee):	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$3 Million.
11. Easements (City as Grantor):	<input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million. <input type="checkbox"/> (b) When closing road, easements to pre-existing utilities for nominal consideration.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million. Delegated to a less senior position.
12. Easements (City as Grantee):	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
13. Revisions to Council Decisions in Real Estate Matters:	<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).	<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).
14. Miscellaneous:	<input checked="" type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences; <input type="checkbox"/> (b) Releases/Discharges; <input type="checkbox"/> (c) Surrenders/Abandonments; <input type="checkbox"/> (d) Enforcements/Terminations; <input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates; <input type="checkbox"/> (f) Objections/Waivers/Cautions; <input type="checkbox"/> (g) Notices of Lease and Sublease; <input type="checkbox"/> (h) Consent to regulatory applications by City, as owner; <input type="checkbox"/> (i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title; <input type="checkbox"/> (j) Documentation relating to Land Titles applications; <input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds.	<input type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences; <input type="checkbox"/> (b) Releases/Discharges; <input type="checkbox"/> (c) Surrenders/Abandonments; <input type="checkbox"/> (d) Enforcements/Terminations; <input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates; <input type="checkbox"/> (f) Objections/Waivers/Cautions; <input type="checkbox"/> (g) Notices of Lease and Sublease; <input type="checkbox"/> (h) Consent to regulatory applications by City, as owner; <input type="checkbox"/> (i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title; <input type="checkbox"/> (j) Documentation relating to Land Titles applications; <input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds.

B. Chief Corporate Officer and Director of Real Estate Services each has signing authority on behalf of the City for:	
<input type="checkbox"/> 1. Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.	<input type="checkbox"/> 2. Expropriation Applications and Notices following Council approval of expropriation.
<input checked="" type="checkbox"/> 3. Documents required to implement the delegated approval exercised by him or her.	
Chief Corporate Officer also has approval authority for:	
<input type="checkbox"/> Leases/licences/permits at Union Station during the Revitalization Period, if the rent/fee is at market value.	

Consultation with Councillor(s)								
Councillor:	Councillor McConnell's office				Councillor:	Councillor Wongtam		
Contact Name:	No comment.				Contact Name:	No comment.		
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail		Memo		Other	
Comments:					Comments:			
Consultation with ABCDs								
Division:	PMO Facilities				Division:	Finance		
Contact Name:	Ikwai Briana				Contact Name:	Filisha Jenkins		
Comments:	Consent.				Comments:	Consent.		
Legal Division Contact								
Contact Name:	Shirley Chow							
DAF Tracking No.: 2017-249				Date	Signature			
Recommended by: Acting Manager, Daran Somas				Oct/4/2017	Sgd.\ Daran Somas			
<input type="checkbox"/>	Recommended by: Director of Real Estate Services			Oct/5/2017	Sgd.\ Joe Casali			
<input checked="" type="checkbox"/>	Approved by: Joe Casali							
<input type="checkbox"/>	Approved by: Chief Corporate Officer				X			
	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.

Comments:

By resolution adopted by Council of The Corporation of the City of Toronto on July 5, 1968, as confirmed by By-Law No. 219-68, the Property was leased under a ground lease dated August 19, 1968, executed between The Corporation of the City of Toronto (now the "City") and a consortium of companies carrying on business as The Inn on the Park, Four Seasons Motor Hotel Limited and South Side Development Limited, collectively as lessee.

In consideration of the ground lease dated August 19, 1968 and in conjunction therewith, the parties thereto entered into a building agreement dated August 19, 1968 (the "Building Agreement"), which set out the parties' obligations and covenants to erect and construct certain buildings and works on the subject lands. The Building Agreement was subsequently amended by an agreement dated July 27, 1971 (the "Bridge Agreement") in relation to the adjacent pedestrian bridge, the pedestrian walkway and the vehicular tunnel. The ground lease, the Building Agreement and the Bridge Agreement are collectively referred to as the "Ground Lease".

Through a series of transactions, there have been amendments, assignments of all or part of the leasehold interest, and corporate restructuring dealings with the Ground Lease and/or the leasehold interest from time to time.

The Assignor is the current tenant under the Ground Lease. Pursuant to an Asset Purchase and Sale Agreement between the Assignor and the Assignee, the Assignor has requested the City's consent to assign the Ground Lease to the Assignee. The Ground Lease contains a covenant on the part of the tenant not to assign the lease without the landlord's consent, such consent not to be unreasonably withheld.

Under the terms of the consent to the assignment of the Ground Lease, the Assignor is not released from its obligations contained in the Ground Lease.

The Assignee has obtained a loan from Wells Fargo Bank, N.A., Canadian Branch, as administrative agent for a syndicate of lenders, in the amount of \$240,000,000.00, to be secured by a first ranking Leasehold Charge/Mortgage. Sections 13.01 and 13.02 of the Ground Lease sets out conditions upon which the tenant may assign or sublet its leasehold interest in the Ground Lease, including the tenant's right to mortgage its leasehold interest in the Ground Lease.

Real Estate Services ("RES") has received a draft copy of the Leasehold Charge/Mortgage, undertaken due diligence and is not aware of any tenant's default under the Ground Lease and confirms that the minimum basic rent and realty taxes are paid up-to-date. RES considers the request to be fair and reasonable.

Appendix "A"

123 Queen Street West, Toronto

Legal Description:

PIN 21403-0005 (LT) BEING PCL 6-21 LEASEHOLD SEC Y1; FIRSTLY: PT LT 6 N/S RICHMOND ST W PL TOWN OF YORK TORONTO; PT LT 7 N/S RICHMOND ST W PL TOWN OF YORK TORONTO; PT LT 8 N/S RICHMOND ST W PL TOWN OF YORK TORONTO PT 1, 2, R3970; T/W PT LOTS 5, 6 N/S RICHMOND ST W PL TOWN OF YORK DESIGNATED AS PT 3, R3970, S/T PT 2 R3970 IN FAVOUR OF PT 3 R3970 AS IN ES64884 (SEE B234606) S/T THE EXCEPTIONS AND QUALIFICATIONS IN THE LAND TITLES ACT AND IN PARTICULAR SEC 55; SECONDLY: LT 1 EXPROP PL MX25 TORONTO; LT 2 EXPROP PL MX25 TORONTO S/T THE EXCEPTIONS AND QUALIFICATIONS IN THE LAND TITLES ACT AND IN PARTICULAR SEC 55. EXCEPT THE PARTICULARS MENTIONED IN CLAUSES 2 AND 3 OF SUB SEC 1 OF SEC 51. R.S.O. 1960, FROM WHICH PARTICULARS THE SAID TITLE IS FREE; THIRDLY: PT TOWNLT 8 N/S RICHMOND ST PL TOWN OF YORK TORONTO TAKING YORK ST AS THE GOVERNING LINE AT A COURSE OF N 16 DEGREES W, THEN COMM ON THE ELY LIMIT OF YORK ST AT A POINT DISTANT 61 FT 3 1/2 INCHES NLY FROM THE N ELY ANGLE OF YORK AND RICHMOND STREETS; THENCE N 16 DEGREES W ALONG THE ELY LIMIT OF YORK ST 48 FT 10 1/2 INCHES TO THE N FENCE OF AN OLD FRAME BUILDING ON THE LAND HEREIN DESCRIBED; THENCE N 74 DEGREES 12 MINUTES E, 37 FT; THENCE S 15 DEGREES 14 MINUTES E 49 FT, 6 INCHES; THENCE S 75 DEGREES 10 MINUTES W 36 FT 4 INCHES TO THE POC, S/T THE EXCEPTIONS AND QUALIFICATIONS IN THE LAND TITLES ACT AND IN PARTICULAR SEC 55; TORONTO, CITY OF TORONTO.

