

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

TRACKING NO.: 2016-281

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:	Adriel Clayton	Division:	Real Estate Services
Date Prepared:	December 28, 2016	Phone No.:	(416) 392-7176

Purpose	To obtain authority for the City to: (i) consent to the assignment of a lease dated October 1, 1980 (the "Lease"), by the current tenant, Ivanhoe Cambridge II Inc. (the "Tenant"), to NAFA Properties Inc. (the "Assignee") in respect to the lands at the rear of 65 Skyway Avenue, Etobicoke, (ii) consent to the leasehold mortgage by the Assignee in favour of the Business Development Bank of Canada ("BDC"), (iii) set the rent for the Third Rental Period in accordance with the terms and conditions of the Lease, (iv) amend the definition of various Rental Periods in the Lease, and (v) to determine the applicable definition of the Fair Market Rental as it applies to particular Rental Periods under the Lease as outlined in Schedule "B".
Property	Lands at the rear of 65 Skyway Avenue, Etobicoke, designated as Parts 1 & 2 on Plan 64R-8647 and containing an area of approximately 1.78 acres, as outlined in Schedules "C" and "D" (the "Property").
Actions	<ol style="list-style-type: none"> Authority be granted for the City to: (a) enter into a consent to assignment and amendment of the lease (the "Consent Agreement") with the Tenant and the Assignee to: (i) consent to the Tenant's request to assign the Lease to the Assignee, conditional upon payment by the Tenant to the City of all outstanding rents and/or other payments due under the Lease, (ii) set the rent for the Third Rental Period in accordance with the terms and conditions of the Lease, (iii) amend the definition of various Rental Periods, and (iv) to determine the applicable definition of Fair Market Rental as it applies to particular Rental Periods under the Lease as outlined in Schedule "B", and (b) consent to the Assignee's request for a first mortgage in the amount of \$7,240,000.00 of the Assignee's leasehold interest in the Property in favour of BDC, and on such other or amended terms and conditions as may be satisfactory to the Chief Corporate Officer (the "CCO") and in a form acceptable to the City Solicitor; The CCO or her designate shall administer and manage the Consent Agreement and 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; and The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.
Financial Impact	<p>At the time of execution of the Consent Agreement, the City will collect from the Tenant a shortfall in rent for Third Rental Period amounting to a total of \$261,089.56 inclusive of HST. An additional \$79,218.80 in annual lease revenues, exclusive of HST, will result from setting the rent for the Third Rental Period in accordance with the terms and conditions of the Lease.</p> <p>The Deputy City Manager & Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p> <p>For additional details on Financial Impact, see Schedule "A".</p>
Comments	For Comments, see Schedule "A".
Terms	The same as in the Lease, save and except as amended by the Terms and Conditions outlined in Schedule "B".

Property Details	Ward:	2 – Etobicoke North
	Assessment Roll No.:	1919-03-8-240-00300
	Approximate Size:	18 m x 400.2 m ± (59 ft x 1312 ft ±)
	Approximate Area:	1.78 acres, or 7203.4 m ² ± (77536.8 ft ² ±)
	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 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 checked="" 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:	
<p><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.</p> <p><input type="checkbox"/> 2. Expropriation Applications and Notices following Council approval of expropriation.</p> <p><input checked="" type="checkbox"/> 3. Documents required to implement the delegated approval exercised by him.</p>	<p>Chief Corporate Officer also has approval authority for:</p> <p><input type="checkbox"/> Leases/licences/permits at Union Station during the Revitalization Period, if the rent/fee is at market value.</p> <p>Consultation with Councillor(s)</p>

Councillor:	Michael Ford	Councillor:	
Contact Name:	Dan Jacobs	Contact Name:	
Contacted by:	<input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Memo <input type="checkbox"/> Other	Contacted by:	<input type="checkbox"/> Phone <input type="checkbox"/> E-mail <input type="checkbox"/> Memo <input type="checkbox"/> Other
Comments:	Proceed	Comments:	
Consultation with ABCDs			
Division:	Financial Planning	Division:	
Contact Name:	Ron Budhu	Contact Name:	
Comments:	Proceed	Comments:	
Legal Division Contact			
Contact Name:	Shirley Chow		
DAF Tracking No.: 2016-281		Date	Signature
Recommended by: Wayne Duong, Manager		Dec/28/2016	Sgd\ Wayne Duong
<input checked="" type="checkbox"/> Recommended by:	Director of Real Estate Services Joe Casali	Jan/6/2017	Sgd.\ Joe Casali
<input type="checkbox"/> Approved by:			
<input checked="" type="checkbox"/> Approved by:	Chief Corporate Officer Josie Scioli	Jan/9/2017	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 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.

SCHEDULE "A"

Financial Impact:

The Tenant is currently paying rent at a rate of \$26,700.00 per annum before HST, being the rent payable during the second rental period from March 1, 1999 to February 28, 2014 (the "Second Rental Period"). The parties have agreed to set the rent for the third rental period, being the term between March 1, 2014 and February 28, 2029 (the "Third Rental Period"), at a rate of \$105,918.07 + HST per annum payable in equal monthly payments of \$8,826.51 + HST per month during the Third Rental Period; based on a rental rate of \$59,504.53 per acre per annum for the 1.78 acre Property. This will generate an additional increase in rent of \$79,218.80 per annum before HST during the Third Rental Period, which is equivalent to an additional \$1,188,271.80 + HST in rent over the entire 15 year term of the Third Rental Period.

The Tenant has paid a monthly rent of \$2,225.00 before HST since the commencement of the Second Rental Period. A rent adjustment of \$6,601.51 per month before HST will be made by the Tenant to account for the Tenant's shortfall in rent since the commencement of the Third Rental Period to January 31, 2017. This shortfall amounts to a total of \$231,052.71 before HST, or \$261,089.56 inclusive of HST. Thereafter, the Assignee will pay the rent set for the Third Rental Period, being \$8,826.51 + HST per month for the remainder of the Third Rental Period.

Comments:

The Lease is for a term of 92 years and 5 months, commencing on October 1, 1980 and expiring on February 28, 2073. The Lease established the rent payable during the Initial Rental Period (as defined therein) and the parties agreed to set the rent for the Second Rental Period, the Third Rental Period, the Fourth Rental Period, the Fifth Rental Period and the Sixth Rental Period (as defined therein), in accordance with the terms and conditions of the Lease. The parties further agreed that the term of the rental periods, as well as the definition used to calculate Fair Market Rental (as defined therein) for the rental periods may be changed, in accordance with the terms of the Lease.

The Lease provides that certain terms and definitions under the Lease are incorporated into the Lease by reference to other lease agreements. By virtue of that fact, certain terms and definitions have been amended in the Lease, as those same terms were amended in the referred-to leases. The Lease provides that the rent for the each of the Rental Periods (including the Third Rental Period), as well as the definition used to calculate Fair Market Rental for each of the Rental Periods, are to be determined in accordance with the terms of a lease over lands adjacent to the Property dated July 30, 1973 (the "Master Lease"), unless a "peel-off lease" from the Master Lease exists. Where such peel-off lease exists, said definition and rent is instead to be determined in accordance with the peel-off lease. A peel-off lease was executed on October 1, 1980 (the "Peel-Off Lease").

The Lease also provides that the tenant will not assign, sub-let, mortgage, pledge or encumber the lease without the landlord's prior written consent (with certain exceptions that do not apply to this proposed assignment). Accordingly, the Tenant has requested the City's consent to an assignment of the Lease to the Assignee and to consent to the Assignee's leasehold mortgage in favour of BDC. Prior to granting consent to the assignment of the Lease, the City will need to reconcile its accounts with the Tenant and settle any outstanding rent owed under the Lease.

SCHEDULE "B"

TERMS & CONDITIONS

Assignor: Ivanhoe Cambridge II Inc.

Assignee: NAFA Properties Inc.

Rent for the Third Rental Period: \$105,918.07 per annum, payable in equal monthly payments of \$8,826.51 per month during the Third Rental Period.

Rental Periods: Third Rental Period shall be fifteen (15) years commencing on March 1, 2014 to February 28, 2029 (inadvertently described as February 8, 2029 in the Lease).

Fourth Rental Period shall be twenty-five (25) years commencing on March 1, 2029 to February 28, 2054.

Fifth Rental Period (being the final rental period) shall be nineteen (19) years commencing on March 1, 2054 to February 28, 2073.

Definition of Fair Market Rental Applicable to Rental Periods: The determination of rent for a particular Rental Period shall be determined in accordance with either Definition 1 or Definition 2 of Fair Market Rent, as defined in the Peel-Off Lease, as follows:

Third Rental Period – amended from Definition 2 to Definition 1 as per the Peel-Off Lease

Fourth Rental Period – amended from Definition 1 to Definition 2 as per the Peel-Off Lease

Fifth Rental Period – remains defined under Definition 1 as per the Peel-Off Lease

Re-adjustment of Rent for the Third Rental Period: The Assignor shall reimburse the City the sum of \$261,089.56 inclusive of HST, being the outstanding rent payable for the rent adjustment for the Third Rental Period, for the period commencing on March 1, 2014 to January 31, 2017.

SCHEDULE "D"

Site Map and Property View

