

DELEGATED APPROVAL FORM
DEPUTY CITY MANAGER, INTERNAL CORPORATE SERVICES
DIRECTOR OF REAL ESTATE SERVICES

TRACKING NO.: 2017-343

<input checked="" type="checkbox"/>	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).		
<input type="checkbox"/>	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:	December 20, 2017	Phone No.:	416 338 9572
Purpose	To obtain authority to enter into a ground lease agreement (the "Lease Agreement") with Stackt Properties Inc. in its capacity as General Partner of Stackt Properties LP. (the "Tenant") to allow the Tenant to develop a temporary outdoor shipping container market featuring various "pop-up" vendors.		
Property	Portion of City-owned property municipally known as 28 Bathurst Street, described as Parts 2, 3, and 4 on Plan 64R-16673 having an approximate area of 102,773 square feet, as shown on Appendix "B" (the "Leased Area").		
Actions	<ol style="list-style-type: none"> 1. The City of Toronto (the "City") enter into the Lease Agreement with the Tenant commencing the later of thirty days following the date the Pre-Conditions to the Lease have been met or sixty days following issuance of a building permit for installation and construction of the works in the Project Plans and shall be no later than March 15, 2018 and expiring September 30, 2020 substantially on the terms and conditions outlined in Appendix "A", and on such other additional and/or amended terms as deemed appropriate by the Deputy City Manager, Internal Corporate Services (the "DCM") or designate, and in a form satisfactory to the City Solicitor. 2. The DCM administer and manage the Lease Agreement, including the provision of any consent, approvals, waivers, notices and notices of termination, on such terms as deemed appropriate by the DCM, provided that the DCM may, at any time, refer consideration of such matter to City Council for its determination and direction. 3. Authorize the City to complete the transaction on behalf of the City, including amending any dates and conditions, on such terms as he/she considers reasonable. 4. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto. 		
Financial Impact	<p>Based on a Commencement Date of March 15, 2018, the City will receive revenue of \$982,145.20 (plus HST) over a term of two (2) years, 6 months and 16 days. Following the commencement date, there is a 5 month fixturing period where the Tenant does not pay Basic Rent. Annual revenue to the City is detailed as follows: \$172,807.83 for 2018, \$462,478.50 for 2019, and \$346,858.88 for 2020.</p> <p>The Acting Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p>		
Comments	<p>The Leased Area comprises the major portion of the property municipally known as 28 Bathurst Street (the "Property"). The Property is the residual portion of a former secondary lead smelter site acquired by the City under a Section 31 Agreement after the City initiated expropriation proceedings in 1988 due to pollution issues. The westerly portion of the Property, designated as Parts 2 and 4 on Plan 64R-16673, has been remediated. A Ministry of Environment and Climate Change Order is registered on title for the decommissioning of the portion of the Property designated as Part 3 on Plan 64R-16673.</p> <p>On November 15, 2016 (TE20.81), the request to initiate the process of amending the Zoning By-law and Official Plan to change the land use designation to Parks and zoning to an appropriate Park zone category at 28 Bathurst St. was adopted by Community Council. The City has plans to develop and design a park at this location in the near future. While the City progresses with the park plans, there is an opportunity to use this vacant land for other purposes on a short term basis.</p> <p>Real Estate Services consider the rent, terms and conditions to be fair, reasonable and at market value.</p>		
Terms	Please see page 4.		
Property Details	Ward:	19 – Trinity-Spadina	
	Assessment Roll No.:	Part of 1904-06-2-160-02406	
	Approximate Size:		
	Approximate Area:	9,549 m ² ± (102,773 ft ²)	
	Other Information:	Vacant land	

A.	Director of Real Estate Services has approval authority for:	Deputy City Manager, Internal Corporate Services 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 checked="" 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 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. Deputy City Manager, Internal Corporate Services 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.

Deputy City Manager, Internal Corporate Services 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:	Councillor Layton					Councillor:				
Contact Name:	Michal Hay, Stephanie Nakitsas					Contact Name:				
Contacted by:	X	Phone	X	E-Mail		Memo		Other		
Comments:						Comments:				
Consultation with ABCDs										
Division:	Parks, Forestry, and Recreation					Division:	Financial Planning			
Contact Name:	David Douglas, Mark Filice					Contact Name:	Patricia Libardo			
Comments:						Comments:	Consent			
Legal Division Contact										
Contact Name:	Jason Aurini									
DAF Tracking No.: 2017-343		Date		Signature						
Recommended by: Project Manager, Robin Chen		Dec. 20, 2017		Signed by Robin Chen						
<input checked="" type="checkbox"/>	Recommended by: Director of Real Estate Services		Dec. 20, 2017		Signed by David Jollimore					
<input type="checkbox"/>	Approved by: David Jollimore									
<input checked="" type="checkbox"/>	Approved by: Deputy City Manager, Internal Corporate Services		Dec. 21, 2017		Signed by Josie Scioli					
<input type="checkbox"/>	Approved by: 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 Deputy City Manager, Internal Corporate Services, in consultation with any other 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.

Appendix "A" – Major Terms and Conditions

Landlord:	City of Toronto
Tenant:	Stackt Properties Inc. in its capacity as General Partner of Stackt Properties LP
Leased Premises:	102,773.00 sq. ft.
Lease Term:	The term commencing on the Commencement Date and ending September 30, 2020.
Commencement Date:	The Commencement Date is conditional on the City's satisfaction with the "Pre-conditions" see below. The lease begins, the later of thirty days following the date the Pre-Conditions to the Lease have been met, or sixty days following issuance of a building permit for installation and construction of the works in the Project Plans and shall be no later than March 15, 2018.
Pre-conditions	(a) Obtain Final Site Plan Approval; (b) Complete satisfactory Environmental Management Plan; and (c) Provide the City with acceptable Project Plans; and (d) Provide the City with a Letter of Credit in the amount of \$100,000.00.
Fixturing Period:	The Tenant has a Basic Rent free period for five (5) months commencing on the Commencement Date.
Use:	Construction, installation, maintenance and operation of Modular Structures for short-term "pop up" commercial and industrial uses permitted at law. This may include retail, food, ancillary parking and storage. A list of prohibited activities is detailed in the Lease Agreement. Modular Structures mean pre-fabricated above grade stacked shipping containers which shall form the buildings for the Project.
Basic Rent:	The Basic Rent for the Term shall be \$4.50 per square foot. This amount includes Realty taxes.
Additional Rent:	The Tenant is responsible for paying all other costs, with the exception of Realty Taxes and the City's repair obligations contained in the Lease Agreement.
"As Is" Condition:	The Tenant accepts the Premises in "As Is" condition.
Assignment and Subleasing:	The Tenant may enter into Modular Structure Subleases, provided that the Tenant is in compliance with the Lease Agreement.
Restoration of Premises:	With the exception of Below Grade Improvements, the Tenant will remove all other Modular Structures and Improvements at end of Term, unless otherwise stated in the Lease Agreement or accepted by the Landlord prior to the expiry of the Lease and return the premises to the original condition or better.
Option to Extend:	There is no option to extend. The Tenant acknowledges that the Landlord intends that the Property shall be developed and used as a park following the expiry or earlier termination of the Lease. However, should the Tenant request an extension of the Lease six months prior to the expiry of the Term, the Landlord will consider the extension request provided the following: (i) the Project is financially viable; and (ii) the Property is not required for the purposes of progressing with the park. The Landlord's decision to grant any extension of the Lease to the Tenant shall be at its sole and absolute discretion.
Social Enterprise:	The Tenant agrees to lease or licence at least 15% of the leasable area of the Modular Structures to Social Enterprise Subtenants. Social Enterprise for the purpose of this Lease Agreement shall mean a not-for-profit corporation, registered charity, or a small business with the primary objective of achieving social, health, environmental, or cultural outcomes that benefit residents of the City of Toronto and as further elaborated in the Lease Agreement.

