

DELEGATED APPROVAL FORM
DIRECTOR, REAL ESTATE SERVICES
MANAGER, REAL ESTATE SERVICES

TRACKING NO.: 2019-357

Approved pursuant to the Delegated Authority contained in Item EX27.12, as adopted by City Council on October 2, 3 & 4, 2017, as amended by Item GM27.12, adopted by City Council on May 22, 23 & 24, 2018 or, where applicable, in Item EX28.8, as adopted by City Council on November 7, 8 & 9, 2017.

Prepared By:	Kathie Capizzano	Division:	Corporate Real Estate Management
Date Prepared:	December 17, 2019	Phone No.:	2-4825

Purpose	1) To execute an Undertaking to T3 Bayside I Property Inc. as Nominee for and on behalf of T3 Bayside I GP Inc., in its capacity as general partner of T3 Bayside I Limited Partnership (collectively, the Tenant) in regards to the ground lease (the C2 Lease) to be entered into between the Tenant and the City of Toronto (the City); and 2) to enter into a Direct Agreement with the Tenant and T3 Bayside I HT ULC (the Subtenant), in respect of the C2 Lease..
Property	PIN 21384-0178 (LT), Block 2, Plan 66M-2514, City of Toronto (C1 Lands); and PIN 21384-0218 (LT), Block 1, Plan 66M-2542, City of Toronto (C2 Lands)
Actions	<ol style="list-style-type: none"> 1. Authority be granted to execute an Undertaking to the Tenant in regards to the C2 Lease to be entered into between the Tenant, as tenant, and the City, as landlord, in respect of the C2 Lands, to amend the C2 Lease to include certain lands within the C1 Lands (the Plaza Lands), if a severance application is approved by the City of Toronto, substantially on the major terms and conditions set out in Schedule B, and including such other terms and conditions as deemed appropriate by the approving authority herein, and in a form satisfactory to the City Solicitor. 2. Authority be granted to enter into a C2 Lease Amending Agreement in accordance with the terms of the Undertaking; and 3. Authority be granted to enter into a Direct Agreement with the Tenant and the Subtenant, in respect of the C2 Lease, substantially on the major terms and conditions set out in Schedule A, and including such other terms and conditions as deemed appropriate by the approving authority herein, and in a form satisfactory to the City Solicitor
Financial Impact	There are no financial implications related from this approval. The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.

Comments

City Council at its meeting on August 25, 26, 27, 2010, by adoption of EX46.33 "Staff Review of Waterfront Toronto's Proposed Sale and Lease of City Lands for Waterfront Revitalization – Bayside", approved the Bayside transaction which authorized the development of the Bayside lands. A recommendation was approved to allow Waterfront Toronto, the master developer of the Bayside lands, to enter into a project agreement with Hines Canada Management Company II ULC (HCM2), the successful proponent as the developer of the Bayside lands. The C1 Lands and C2 Lands are part of the Bayside lands and are to be developed as commercial buildings. HCM2 has nominated the Tenant to enter into the C2 Lease.

The subdivision agreement for the proposed development of the Bayside Lands contemplates, in part, that the Plaza Lands that are part of the C1 Lands be utilized as a public pedestrian linkage to Queens Quay East and the public pedestrian walkways to the south of the C1 Lands. In contemplation of the development of the C2 Lands prior to the development of the C1 Lands, HCM2 has or will be submitting an application to the Committee of Adjustment for the City in respect of the severance of the Plaza Lands from the C1 Lands, such that they become a part of the C2 Lands (the Severance Application) but, as at the date hereof, the approval of such severance has not been granted.

Waterfront Toronto has reviewed and provided written consent to the Severance Application by HCM2. HCM2 has agreed with the City, in its capacity as land owner of the C1 Lands and the C2 Lands, to assume all costs, expenses and liabilities with respect to the Severance Application and to fully indemnify the City in respect of such application, and has acknowledged that the City's consent to the Severance Application does not fetter the planning and municipal rights and obligations of the City.

The City, solely in its capacity as land owner of the C1 Lands and the C2 Lands, seeks authority to provide an Undertaking to the Tenant such that, upon the C2 Lease being entered into and upon approval of the Severance Application and satisfaction by HCM2 and/or the Tenant of all conditions that may be imposed in respect of such Severance Application, the City, as landlord under the C2 Lease will enter into a Ground Lease Amending Agreement with the Tenant to demise the Plaza Lands to the Tenant and amend the definition of Lands in the C2 Lease to include the Plaza Lands. The proposed form of Undertaking is attached as Schedule B.

The Tenant is proposing to enter into a sublease with the Subtenant, under which the Subtenant will sublease all or substantially all of the lands under the C2 Lease. Under the C2 Lease, the City's consent is required before the Tenant enters into the Sublease. The City seeks authority to enter into a Direct Agreement with the Tenant and Subtenant consenting to the sublease and providing that the Subtenant will perform all of the covenants and agreements of the Tenant contained in the Ground Lease and any other obligations assumed by the Tenant pursuant to the Ground Lease and agrees to be bound by all of the terms of the Ground Lease, among other matters. The proposed form of Direct Agreement is attached as Schedule A

Property Details

Ward:	10 – Spadina-Fort York
Assessment Roll No.:	
Approximate Size:	
Approximate Area:	
Other Information:	

A.	Manager, Real Estate Services has approval authority for:	Director, Real Estate Services 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 Divisions and Agencies:</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 \$50,000.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$50,000.</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 \$50,000.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to a more senior position.</p> <p><input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$50,000.</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>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$50,000.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to a more senior position.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</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"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 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>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><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 \$1 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>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</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 roads, 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 subject to General Condition (u)).</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 checked="" type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates</p> <p><input type="checkbox"/> (f) Objections/Waivers/Caution</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. Director, Real Estate Services and Manager, Real Estate Services each has signing authority on behalf of the City for:		
<ul style="list-style-type: none"> Documents required to implement matters for which he or she also has delegated approval authority. Expropriation Applications and Notices following Council approval of expropriation (Manager, Transaction Services is only Manager with such signing authority). 		
Director, Real Estate Services also has signing authority on behalf of the City for:		
<ul style="list-style-type: none"> Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval. Community Space Tenancy Leases approved by delegated authority by Deputy City Manager, Corporate Services and any related documents. 		
Consultation with Councillor(s)		

Councillor:	Councillor Cressy	Councillor:	
Contact Name:	Tom Davidson	Contact Name:	
Contacted by:	Phone X E-Mail Memo Other	Contacted by:	Phone E-mail Memo Other
Comments:	No objection – Dec 17/19	Comments:	
Consultation with Divisions and/or Agencies			
Division:	Waterfront Secretariat	Division:	Finance
Contact Name:	Jayne Naiman	Contact Name:	Filisha Jenkins
Comments:	Concurs	Comments:	Concurs – Dec 17/19
Legal Division Contact			
Contact Name:	Kathleen Kennedy / Charlene Farrugia - Dec 18, 2019		

DAF Tracking No.: 2019- 357	Date	Signature
Concurred with by: Manager, Real Estate Services		
<input checked="" type="checkbox"/> Recommended by: Acting Manager, Real Estate Services Melanie Hale-Carter	Dec. 19, 2019	Signed by Melanie Hale-Carter
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Acting Director, Real Estate Services Nick Simos	Dec. 19, 2019	Signed by Nick Simos

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. In the event of a vacancy in the Ward in which the subject property is located, the Mayor's office shall be consulted in the alternative.
- (b) Where approving power has been delegated to staff, the Deputy City Manager, 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 as defined in the *Toronto Waterfront Revitalization Corporation Act, 2002* 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 of City Planning, 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, as leases of 21 years or more may be authorized based on the delegated Approving Authority for disposals in **A.7**.
- (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, including ancillary agreements, 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) 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.
- (aa) All residential leasing documents shall adhere to the *Residential Tenancies Act, 2006* and any successor legislation.
- (bb) Despite GC(n), Approving Authority in residential leasing matters is not limited to periods of less than twenty-one (21) years and total compensation in residential leasing matters where the City is landlord is to be calculated based on an assumed term of ten years unless the lease term expressly identified therein is longer.
- (cc) Where Approving Authority has been delegated to the Manager level, such authority shall be conditional upon the Manager first having secured the written concurrence of a second Manager within the Real Estate Services Division.
- (dd) Where the City is transacting with a public agency, and such agency requires that an unqualified environmental indemnity be granted by the City, the authority to acquire property includes authority to grant such an indemnity, provided that the Phase I and Phase II environmental site assessments undertaken on behalf of the City have identified no significant environmental impacts or human health threats, with no, or minor action required ("Low Risk").

SCHEDULE A

DIRECT AGREEMENT

THIS AGREEMENT dated the ____ day of _____, 2019.

B E T W E E N:

CITY OF TORONTO
(hereinafter called the "**Landlord**")

and

T3 BAYSIDE I PROPERTY INC., in its capacity as nominee for and on behalf of
T3 BAYSIDE I GP INC., as general partner of
T3 BAYSIDE I LIMITED PARTNERSHIP
(hereinafter collectively called the "**Tenant**")

and

T3 BAYSIDE I HT ULC
(hereinafter called the "**Subtenant**")

WHEREAS:

- A. The Landlord entered into a ground lease (the "**Ground Lease**") with the Tenant dated as of the date hereof in respect of the lands described therein (the "**Lands**");
- B. the Tenant is proposing to enter into a sublease with the Subtenant (the "**Sublease**") under which the Subtenant will sublease all of the Lands; and
- C. under the Ground Lease, the Landlord's consent is required before the Tenant enters into the Sublease.

NOW THEREFORE in consideration of the premises, mutual covenants and agreements herein contained, the Landlord, Tenant and Subtenant hereby covenant and agree as follows:

1. Interpretation: Terms or expressions used herein with initial capital letters and not defined herein shall have the same meanings as the identical term or expression where defined in the Ground Lease.
2. Ground Lease Rent: NOTE: contains confidential information as per Council Decision EX46.33 approved on August 25, 2010
3. Performance of Covenants: The Subtenant shall perform all of the covenants and agreements of the Tenant contained in the Ground Lease and any other obligations assumed by the Tenant pursuant to the Ground Lease as and when performance is due in the place and stead of the Tenant, and agrees to be bound by all of the terms of the Ground Lease, including without limitation in relation to confidentiality, except for obligations which by their nature can only be fulfilled by the Tenant. Nothing herein shall release the Tenant from any of its obligations under the Ground Lease. The Landlord shall be entitled to enforce against the Subtenant all of the covenants of the Tenant under or in respect of the Ground Lease in respect of the Lands and agrees that performance by either the Tenant or the Subtenant of the covenants and agreements contained in the Ground Lease shall constitute *pro tanto* performance by the Tenant of the covenants and agreements in respect of the Lands. Each of the Tenant and the Subtenant shall severally perform the covenants and agreements contained in the Ground Lease which by their nature can only be fulfilled by the Tenant or the Subtenant personally.
4. Sublease subject to the Ground Lease: The Subtenant acknowledges to the Landlord that the Subtenant's rights in and to the Lands are solely derived by the Subtenant under the Sublease and the Ground Lease and the Sublease does not create any further rights or entitlements in favour of the Subtenant in addition to or supplementary to those contained in the Ground Lease. The Subtenant acknowledges and agrees that the Landlord shall have the right to enforce as against the Subtenant all of the rights and entitlements reserved to (i) the Landlord under the Ground Lease in respect of the Ground Lease, and (ii) the Tenant under the Sublease in respect of the Sublease, including without limitation, the rights to inspection, access, distraint and audit the Subtenant to the same extent as the Tenant.
5. Releases and Indemnification: The Subtenant acknowledges that the Tenant agrees to release the Landlord from certain potential claims and to indemnify the Landlord from and against certain potential liabilities in the Ground Lease, and the Subtenant hereby releases the Landlord from the same potential claims to the same extent as the Tenant has released the Landlord and agrees to indemnify the Landlord from and against all of the same potential liabilities as the Tenant agreed to indemnify the Landlord against in the Ground Lease.
6. Sublease Terms: The Tenant and the Subtenant agree that the Sublease shall be deemed to contain all those terms and provisions required to be contained in any sublease under the Ground Lease, including without limitation:
 - a. the warning clause required pursuant to Section 6.4(d) of the Ground Lease:

"Warning Clause:
Warning: This site is in proximity to the heavy industrial Redpath Sugar refinery located at 95 Queen's Quay Boulevard East (the "Redpath Facility") which operates 24 hours a day, 7 days a week. Various processes, shipping and receiving, and rail operations may either operate continuously or at any time of day or night. Activities may include: loading, unloading and repair of large tractor trailers or bulk bin trucks; loading, unloading and movements of railway cars along Queen's Quay Boulevard; docking and unloading of ocean and

lake going ships; venting of steam; construction and repair; and operation of various sugar refining processes. In addition, there may be industrial odours and light emanating from the refinery from time to time. Redpath may apply to alter or expand the Redpath Facility in the future. Notwithstanding the inclusion of certain mitigation features within this development to lessen potential noise, air emissions, dust, odour, vibration, and visual impact from the Redpath Facility, from time to time noise from the Redpath Facility is likely to be audible, odours may be unpleasant, and dust and light emissions may be bothersome and such potential noise, air emissions, dust, odour, vibration, and visual impact may impact the enjoyment of indoor and outdoor areas of this development. Redpath Sugar advises that it will not be responsible for any complaints or claims arising from any of the activities at or relating to the Redpath Facility property or operations thereon."

- b. a release and discharge of the Landlord Parties from all liability, costs, damages, claims or demands for any death, health impact or risk, injury, damage to property or any other claim whatsoever by the Tenant Parties in relation to the use and occupation of the Lands, the business carried on at the Lands, and the existence of any Hazardous Materials (known or unknown) in, on, under the Lands, other than for claims arising out of the negligence or willful misconduct of the Landlord or the Landlord Parties on or after the Commencement Date;
- c. an indemnity to save the Landlord Parties harmless from all loss, claims, actions, damages, liability and expenses in connection with loss of life, health impact or risk, personal injury, damage to property or any other loss, injury or claim arising from the sublease or license, or any occurrence or condition in, on or at the sublet or licensed premises, other than an occurrence or condition relating to the Pre-Existing Environmental Condition, or from the occupancy or use by the Subtenant of the sublet or licensed premises, or any part thereof, or occasioned wholly or in part by an act or omission of the Subtenant or by anyone permitted to be on the sublet or licensed premises by the Subtenant, save to the extent of the Landlord's negligence or willful misconduct on or after the Commencement Date; and
- d. a requirement for each Subtenant to carry liability insurance adding each of the Tenant and the Landlord as additional insureds, including severability of interest and cross liability provisions, waiver of subrogation and such additional or other terms as may be reasonably required by the Landlord; provided, however, that where the Tenant and the Subtenant do not deal at Arm's Length, the Subtenant shall not be required to carry such liability insurance for so long as the Subtenant's liability is insured to the same extent and on the same terms as the Tenant's liability is required to be insured under the Ground Lease; and
- e. a prohibition on any assignment or encumbrance of any sub-sublease or any other Transfer or attempt to Transfer except with the prior written consent of the Subtenant and in accordance with the terms of their sub-subleases or licenses; and
- f. the Subtenant shall provide to the Landlord copies of all sub-subleases, licenses or other occupancy agreements entered into by the Subtenant from time to time as may be requested by the Landlord, to the same extent as the Tenant would be required to provide subleases, licenses or other occupancy agreements under the terms of the Ground Lease had such agreements been entered into directly by the Tenant.

The Subtenant shall include each of the Sublease terms required pursuant to this Section 6 in all sub-subleases, licenses or other agreements that may be entered into by the Subtenant from time to time pursuant to which any person (an "**Occupant**") is allowed to occupy any part of the Lands and shall require each Occupant to include the same terms in any agreement entered into by such Occupant pursuant to which any person is allowed to occupy any part of the Lands.

7. Landlord's Consent: The Landlord confirms its consent to the entering into the Sublease in the form attached as Schedule "A".
8. Automatic Termination of Sublease: If the Landlord terminates the Ground Lease, the Sublease shall automatically be terminated.
9. Non-Disturbance Agreement: The Tenant and/or the Subtenant may request the Landlord enter into a non-disturbance agreement with any sub-subtenant having a direct agreement with the Subtenant from time to time in accordance with Section 10.7 of the Ground Lease, *mutatis mutandis*, and the Landlord shall provide a non-disturbance agreement subject to settling an agreement satisfactory to the Landlord and the Subtenant, at the Subtenant's sole cost.
10. Notices: All notices under this Agreement will be effective only if made in writing and personally delivered to the office of the addressee or delivered by courier or sent by facsimile transmission or email to, in the case of the Landlord or the Tenant, the address of the addressee included in the Ground Lease, and in the case of the Subtenant, the address included in the Sublease attached hereto as Schedule "A" or to such other address as may be specified by notice by the addressee to sender. Any party may change its address for the foregoing purposes by giving the other parties notice of such change of address. Any notices personally delivered shall be deemed to have been given upon the day of delivery. Any other notices shall be deemed to be received on the business day next following the day it is delivered or sent. A "business day" means any day of the week except a Saturday, a Sunday or a statutory holiday in the Province of Ontario.
11. Governing Law & Interpretation. This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to the choice of law rules of such province.
12. Headings: The headings of paragraphs in this Agreement are provided for convenience only and shall not affect the interpretation of the paragraphs.

13. Successors and Permitted Assigns:
 - a. This agreement shall enure to the benefit of and shall be binding on each of the parties hereto and each of their respective successors and permitted assigns.
 - b. The Subtenant shall not assign any interest in the Sublease to any Person, other than a "Permitted Assignment" as defined herein, without first obtaining the Landlord's consent and satisfaction of the Landlord's conditions which may include a satisfactory due diligence review of the assignee and shall include an agreement entered into by the assignee and Landlord under which the assignee agrees to assume all of the Subtenant's obligations under this Agreement in a form satisfactory to the Landlord acting reasonably. For the purposes of this section, a "Permitted Assignment" is an assignment which, if the Subtenant were the tenant under the Ground Lease, would not require the Landlord's consent under the Ground Lease.
 - c. The Subtenant shall not require the Landlord's consent for a Permitted Assignment.
 - d. The Subtenant shall pay all costs and expenses of the Landlord (including reasonable administrative and legal costs) in connection with the request. All agreements, covenants, obligations and indemnifications in this Agreement made by the Subtenant survive the expiration or earlier termination of the Sublease.
14. Waiver. No waiver of any of the provisions hereof shall be effective unless such waiver is in writing and signed by the party so waiving and any such waiver shall not be construed as a waiver in respect of any other failure, breach or default not expressly identified by such written waiver. No failure or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall be construed as a waiver thereof.
15. Further Assurances. Each party will from time to time, upon any reasonable request of the other, make, execute and deliver, or cause to be made, executed and delivered, all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.
16. Miscellaneous. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest. This Agreement shall enure to the benefit of and be binding upon the parties hereto, their successors and assigns. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
17. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties regarding the subject matter hereof, and supersedes all prior oral and written understanding or agreement, with respect to the subject matter hereof. If any covenant, obligation or agreement set forth herein or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of this Agreement and the application of such covenant, obligation or agreement to Persons or circumstances other than those as to which its application is held invalid or unenforceable shall not be affected thereby and each such covenant, obligation or agreement shall be held separately valid and enforceable to the fullest extent permitted by law.
18. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and which, taken together, shall constitute one and the same instrument. This Agreement may be delivered by electronic transmission of a pdf signature and the parties hereby adopt any signature received in pdf as original signatures of the transmitting party. In the case of electronic transmission of a pdf, the transmitting party shall forthwith deliver an originally executed copy of this Agreement to each of the other parties.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

CITY OF TORONTO

Per: _____
Name:
Title

Per: _____
Name:
Title

**T3 BAYSIDE I PROPERTY INC., in its capacity as nominee for and on behalf of
T3 BAYSIDE I GP INC., as general partner of T3 BAYSIDE I LIMITED
PARTNERSHIP**

Per: _____
Name:
Title

Per: _____
Name:
Title

I/We have authority to bind the Corporation.

T3 BAYSIDE I HT ULC

Per: _____
Name:
Title

Per: _____
Name:
Title

I/We have authority to bind the Corporation.

**SCHEDULE B
UNDERTAKING**

- TO:** T3 Bayside I Property Inc. as Nominee for and on behalf of
T3 Bayside I GP Inc. in its capacity as general partner of
T3 Bayside I Limited Partnership (collectively, the "Tenant")
- RE:** The ground lease (the "C2 Lease") to be entered into between the Tenant, as tenant, and the City of Toronto (the "City"),
as landlord, in respect of the lands described under PIN 21384-0218 (LT) as BLOCK 1, PLAN 66M2542; CITY OF
TORONTO (the "C2 Lands")
- AND RE:** The lands and premises described under PIN 21384-0178 (LT) as BLOCK 2, PLAN 66M2514; CITY OF TORONTO (the
"C1 Lands")
- AND RE:** That portion of the C1 Lands designated as Part 2on the attached draft plan to be registered in the Land Registry Office
for the Land Titles Division of Toronto (No. 66), a copy of which is annexed hereto as Schedule "A" (the "Plaza Lands")

WHEREAS Hines Canada Management Company II ULC ("HCM2") is the party to a project agreement dated June 28,2012 with Waterfront Toronto (as amended from time to time) in connection with the development of the lands bounded by Lake Ontario on the south, Sherbourne Common on the west, Queens Quay East on the north and the Parliament Street Slip on the east (the "Bayside Lands") of which the C1 Lands and the C2 Lands form part.

AND WHEREAS HCM2 nominated the Tenant to enter into the C2 Lease.

AND WHEREAS the subdivision agreement for the proposed development of the Bayside Lands contemplates, in part, that the Plaza Lands are to be utilized as a public pedestrian linkage to Queens Quay East and the public pedestrian walkways to the south of the C1 Lands.

AND WHEREAS, in contemplation of the development of the C2 Lands prior to the development of the C1 Lands, HCM2 has or will be submitting an application to the Committee of Adjustment for the City in respect of the severance of the Plaza Lands from the C1 Lands such that they become a part of the C2 Lands (the "Severance Application") but, as at the date hereof, the approval of such severance has not been granted.

AND WHEREAS Waterfront Toronto has reviewed and provided written consent to the Severance Application by HCM2 ("WT Consent") attached as Schedule "B";

AND WHEREAS HCM2 has agreed with the City, in its capacity as land owner of the C1 Lands and the C2 Lands, to assume all costs, expenses and liabilities with respect to the Severance Application and to fully indemnify the City in respect of such application, and has acknowledged that the City's consent to the Severance Application does not fetter the planning and municipal rights and obligations of the City ("HCM2 Undertaking and Acknowledgment") attached as Schedule "C";

AND WHEREAS the City, in reliance upon the WT Consent and HCM2 Undertaking and Acknowledgment, has solely in its capacity as land owner of the C1 Lands and the C2 Lands, provided written consent to the Severance Application being made by HCM2 ("City Consent") attached as Schedule "D";

NOW THEREFORE in consideration of the completion of the transaction contemplated by the C2 Lease and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties agree as follows:

The City, solely in its capacity as land owner of the C1 Lands and the C2 Lands, hereby undertakes and agrees to and in favour of the Tenant that upon the C2 Lease being entered into and upon approval of the Severance Application and satisfaction by HCM2 and/or the Tenant of all conditions that may be imposed in respect of such Severance Application, the City, as landlord under the C2 Lease will enter into a Ground Lease Amending Agreement with the Tenant to: (i) demise the Plaza Lands to the Tenant; and (ii) amend (A) the definition of "Lands" in the C2 Lease to include the Plaza Lands, and (B) Schedule A to the C2 Lease to include the Plaza Lands.

IN WITNESS WHEREOF the undersigned has executed this undertaking under seal as of the day and year first above written.

CITY OF TORONTO

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have the authority to bind the Corporation.