

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

TRACKING NO.: 2019-264

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:	Jack Harvey	Division:	Corporate Real Estate Management
Date Prepared:	November 26, 2019	Phone No.:	416-397-7704

**Purpose**  
 To obtain authority to: (i) consent to an assignment from Mogul Properties Ltd. (the "**Existing Tenant**") to 1011DS Corp., as general partner for and on behalf of 1011DS LP (the "**Assignee**") of a ground lease dated January 31, 1973, as amended and assigned from time to time (the "**Lease**") between City of Toronto (formerly The Municipality of Metropolitan Toronto) ("**the City**"), as landlord, and Fel-Sab Developments Limited, as tenant (the "**Lease**") and a second leasehold mortgage to be given back by the Assignee to the Existing Tenant (the "**Second Leasehold Mortgage**"); and (ii) amend the Lease.

**Property**  
 1011 Dufferin Street, Toronto (the "**Leased Premises**"), shown on the map and photo attached hereto as Schedule "A".

**Actions**  
 Authority be granted to enter into an agreement (the "**Consent Agreement**") between the City, the Existing Tenant, the Assignee, TAS LP 2 Management Inc., as general partner for and on behalf of TAS LP 2 (the "**Indemnifier**") and Royal Bank of Canada consenting to the assignment, amendment and mortgaging of the Lease on the terms and conditions set out in the "Terms" section below and on such other or amended terms as may be deemed appropriate by the staff member with delegated authority and in a form acceptable to the City Solicitor.

**Financial Impact**  
 There is no financial impact resulting from this approval.  
  
 The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial impact information.

**Comments**  
 The current term of the Lease expires on December 31, 2038. The Lease contains one further option to renew the term for 33 years. The Existing Tenant has agreed to sell its interest in the Lease and has requested that the City consent to the assignment thereof to the Assignee. The Assignee has arranged with Royal Bank of Canada to assume its existing first leasehold mortgage in the amount of \$4,200,000.00 and as partial payment of the purchase price for the assignment of the Lease, the Existing Tenant has agreed to take back a second-ranking leasehold mortgage of the Lease and the Leased Premises from the Assignee in the principal amount of \$3,500,000, having an interest rate of 1.5% per annum and a term of 3 months (plus two options in favour of the Assignee to extend the term by 1 month each).

The Existing Tenant breached the terms of the Lease by failing to obtain the City's consent to the granting of two further mortgages of the Lease in 2019 to JRJF Group Corp. and Computershare Trust Company of Canada ("Computershare"). The leasehold mortgage in favour of JRJF Group Corp. has since been discharged. Except for the foregoing events of default, the Lease is in good standing, including payment of rent and realty taxes. Real Estate Services has decided to waive the two events of default provided that the assignment to the Assignee is completed and the leasehold mortgage in favour of Computershare is discharged on the closing of the Lease assignment transaction.

Real Estate Services staff have completed and are satisfied with their due diligence on the Assignee, the Indemnifier and the Second Leasehold Mortgage.

**Terms**  
 See Appendix "A".

<b>Ward:</b>	9 - Davenport
<b>Assessment Roll No.:</b>	1904-03-1-100-11800
<b>Approximate Size:</b>	12,593.78 square feet
<b>Approximate Area:</b>	N/A
<b>Other Information:</b>	N/A

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 &amp; Parks &amp; 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><b>Delegated to a more senior position.</b></p> <p><b>Delegated to a more senior position.</b></p> <p><b>Delegated to a more senior position.</b></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><b>Delegated to a more senior position.</b></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><b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b></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><b>Delegated to a more senior position.</b></p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p><b>Delegated to a more senior position.</b></p> <p><b>Delegated to a more senior position.</b></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 &amp; authorize GM, Transportation Services to give notice of proposed by-law.</p> <p><b>Delegated to a more senior position.</b></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><b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b></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 checked="" 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 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>
<p><b>B. Director, Real Estate Services and Manager, Real Estate Services each has signing authority on behalf of the City for:</b></p>		
<ul style="list-style-type: none"> <li>• Documents required to implement matters for which he or she also has delegated approval authority.</li> <li>• Expropriation Applications and Notices following Council approval of expropriation (Manager, Transaction Services is only Manager with such signing authority).</li> </ul>		
<p><b>Director, Real Estate Services also has signing authority on behalf of the City for:</b></p>		
<ul style="list-style-type: none"> <li>• Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.</li> <li>• Community Space Tenancy Leases approved by delegated authority by Deputy City Manager, Corporate Services and any related documents.</li> </ul>		

Consultation with Councillor(s)															
Councillor:	Ana Bailão				Councillor:										
Contact Name:	Michael Vieira				Contact Name:										
Contacted by:	Phone	x	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	No objections Nov. 6, 2019				Comments:										
Consultation with Divisions and/or Agencies															
Division:					Division:	Financial Planning									
Contact Name:					Contact Name:	Filisha Jenkins									
Comments:					Comments:	Approved									
Legal Division Contact															
Contact Name:	Mark Zwegers														

DAF Tracking No.: 2019-264	Date	Signature
Concurred with by: N/A		
<input checked="" type="checkbox"/> Recommended by: Alex Schuler Manager, Real Estate Services	Dec. 2, 2019	Signed by Alex Schuler
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Acting Director, Real Estate Services Nick Simos	Dec. 6, 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 50M<sup>2</sup> 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").

## Appendix "A"

### Terms

The Consent Agreement provides as follows:

- The City consents to the assignment of the Lease to the Assignee.
- The Assignee agrees to assume and perform all of the Existing Tenant's obligations under the Lease, including the payment of rent.
- The Indemnifier agrees to make all payments of rent due and perform all of the Assignee's obligations under the Lease and to indemnify the City for all losses, costs and other damages arising out of any default by the Assignee of its obligations under the Lease.
- The Existing Tenant is not released from its obligations under the Lease.
- The City confirms that to its knowledge, the Lease is in good standing, except for the events of default noted in the "Comments" section hereof, which the City has agreed to waive.
- The parties agree that the Landlord Consent Agreement dated June 21, 2018 among the City, Royal Bank of Canada and the Existing Tenant remains in full force and effect.
- The City consents to the Second Leasehold Mortgage.
- The City confirms that the Existing Tenant in its capacity as leasehold mortgagee can rely on Paragraphs 40 and 43 of the Lease which require the City to give notice of any defaults by the tenant under the Lease and give the Lender a right to cure those defaults and to enter into a new lease with the Existing Tenant in its capacity as leasehold mortgagee on the same terms as the Lease in the event that the City terminates the Lease because of a default by the tenant thereunder.
- The Existing Tenant in its capacity as leasehold mortgagee agrees that the City can rely on Paragraph 44 of the Lease which grants to the City the right upon termination of the Lease to pay out the amounts outstanding under the Second Leasehold Mortgage and receive a release and assignment thereof from the Existing Tenant in its capacity as leasehold mortgagee.
- Paragraph 26 of the Lease is amended and restated to provide that the tenant is required to obtain commercial general liability insurance and provide the City with evidence thereof.
- Paragraph 36 of the Lease is amended to clarify when the consent of the City is required to any assignment or encumbering of the Lease and to give the City the right to terminate the Lease in the event that the tenant's interest therein is assigned without the consent of the tenant as a result of the bankruptcy or insolvency of the tenant.

Schedule "A"

Location Map  
1011 Dufferin Street

