

**DELEGATED APPROVAL FORM**  
**DEPUTY CITY MANAGER, CORPORATE SERVICES**  
**EXECUTIVE DIRECTOR, CORPORATE REAL ESTATE MANAGEMENT**

TRACKING NO.: 2022-160

Approved pursuant to the Delegated Authority contained in Article 2 of City of Toronto Municipal Code Chapter 213, Real Property

Prepared By:	Mike Saffran	Division:	Corporate Real Estate Management
Date Prepared:	July 18, 2022	Phone No.:	(416) 392-7205

<b>Purpose</b>	To obtain authority to amend the decision of City Council in respect of Item No. GL15.16 adopted by Council on September 30, October 1 and 2, 2020, and to revise the terms and conditions of a ground lease extension and amending agreement with BSREP II Hospitality Toronto GP Inc., in its capacity as general partner of BSREP II Hospitality Toronto L.P. (the "Lessee"), in respect to lease of the City-owned lands located at 123 Queen Street West, Toronto.
<b>Property</b>	A leasehold interest in the land located at 123 Queen Street West, Toronto, being the whole of PIN 21403-0005 (LT), as described in the legal description in the attached Appendix "A" and shown on the Location Map attached hereto as Appendix "B" (the "Leased Lands").
<b>Actions</b>	1. Authority be granted to enter into a ground lease extension and amending agreement (the "Agreement") with the Lessee, to include the revised terms and conditions set out in Appendix "C", and including such other terms as deemed appropriate by the Executive Director, Corporate Real Estate Management and in a form satisfactory to the City Solicitor.
<b>Financial Impact</b>	Estimated revenue has been authorized in the Confidential Attachment 1 to Item No. GL15.16 approved by City Council at its meeting of September 30, October 1 and 2, 2020. The rental revenue will be allocated to the 2022 Council Approved Operating Budget for Corporate Real Estate Management under cost centre FA1448.  The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the financial implications as identified in the Financial Impact section.
<b>Comments</b>	The Lessee is the current tenant of the Leased Lands under a ground lease dated August 18, 1968 (the "Ground Lease"), with a term of ninety-five (95) years, commencing on June 1, 1973 to May 31, 2068. The Lessee requested an early extension of the Ground Lease, amongst other amendments.  Pursuant to Item No. GL15.16, approved by City Council at its meeting on September 30, October 1 and 2, 2020, Council authorized the extension of the Ground Lease for a period of 40 years, commencing on June 1, 2068 and expiring on May 31, 2108, amongst other amendments to the Ground Lease. As part of the proposed amendments, the Lessee has committed to investing a minimum of \$40 Million in renovations and capital improvements to the Leased Lands within three (3) years, and has agreed to invest a minimum of \$5 Million in additional renovations in future years in the event that the retail leasing market and hospitality industry recovers to pre-COVID-19 levels. The City has concluded its negotiations with the Lessee and is now seeking authorization to revised terms and conditions set out in Item. No. GL15.16. Such amendments are not materially inconsistent with the authority set out in Item No. GL15.16.
<b>Terms</b>	See Appendix "C" for revised terms and conditions.

<b>Property Details</b>	<b>Ward:</b>	10 – Fort York-Spadina
	<b>Assessment Roll No.:</b>	1904 063 120 00200 0000
	<b>Approximate Area:</b>	12,508.56 m <sup>2</sup> 134,641 ft <sup>2</sup> (3,091 acres) (1.25 hectares)
	<b>Other Information:</b>	Ground Lease

A.	Executive Director, Corporate Real Estate Management has approval authority for:	Deputy City Manager, Corporate Services has approval authority for:
<p>1. Acquisitions:</p> <p>2A. Expropriations Where City is Expropriating Authority:</p> <p>2B. Expropriations For Transit-Related Purposes Where City is Property Owner or Has Interest in Property Being Expropriated:</p> <p>3. Issuance of RFPs/REOs:</p> <p>4. Permanent Highway Closures:</p> <p>5. Transfer of Operational Management to Divisions, Agencies and Corporations:</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 \$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"/> (a) Acceptance of statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$3 Million.</p> <p><b>Request/waive hearings of necessity delegated to less senior positions.</b></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><input type="checkbox"/> Transfer of Operational Management to Divisions, Agencies and Corporations.</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 twelve (12) months, including licences for environmental assessments and/or testing, etc.</p> <p><b>Delegated to a more senior position.</b></p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$3 Million.</p> <p><input type="checkbox"/> (a) Where total compensation does not exceed \$3 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 \$3 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 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/Estoppel 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 \$5 Million.</p> <p><input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$5 Million.</p> <p><input type="checkbox"/> (a) Acceptance of statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$5 Million.</p> <p><b>Request/waive hearings of necessity delegated to less senior positions.</b></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><input type="checkbox"/> Transfer of Operational Management to Divisions, Agencies and Corporations.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 Million.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$5 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 \$5 Million.</p> <p><input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding twelve (12) months, including licences for environmental assessments and/or testing, etc.</p> <p><input type="checkbox"/> (c) Where compensation is less than market value, provided tenant and lease satisfy Community Space Tenancy Policy criteria set out in Item EX28.8, as adopted by Council on November 7, 8 and 9, 2017, as amended from time to time.</p> <p><input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$5 Million.</p> <p><input type="checkbox"/> (a) Where total compensation does not exceed \$5 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 \$5 Million.</p> <p><input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (U)).</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/Estoppel 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>B. Deputy City Manager, Corporate Services and Executive Director, Corporate Real Estate Management each has signing authority on behalf of the City for:</b>
<ul style="list-style-type: none"> <li>• Documents required to implement matters for which each position also has delegated approval authority.</li> <li>• Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.</li> <li>• Expropriation Applications and Notices following Council approval of expropriation.</li> <li>• Community Space Tenancy Leases approved by delegated authority by the Deputy City Manager, Corporate Services and any related documents.</li> </ul>

**Pre-Condition to Approval**

Complies with General Conditions in Appendix B of City of Toronto Municipal Code Chapter 213, Real Property

**Consultation with Councillor(s)**

Councillor:	Joe Mihevc	Councillor:	
Contact Name:	Brent Gilliard, Bushra Mir	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:	No objections – July 11, 2022	Comments:	

**Consultation with Divisions and/or Agencies**

Division:		Division:	Finance
Contact Name:		Contact Name:	Filisha Jenkins
Comments:		Comments:	Concurs with FIS – July 18, 2022

**Legal Services Division Contact**

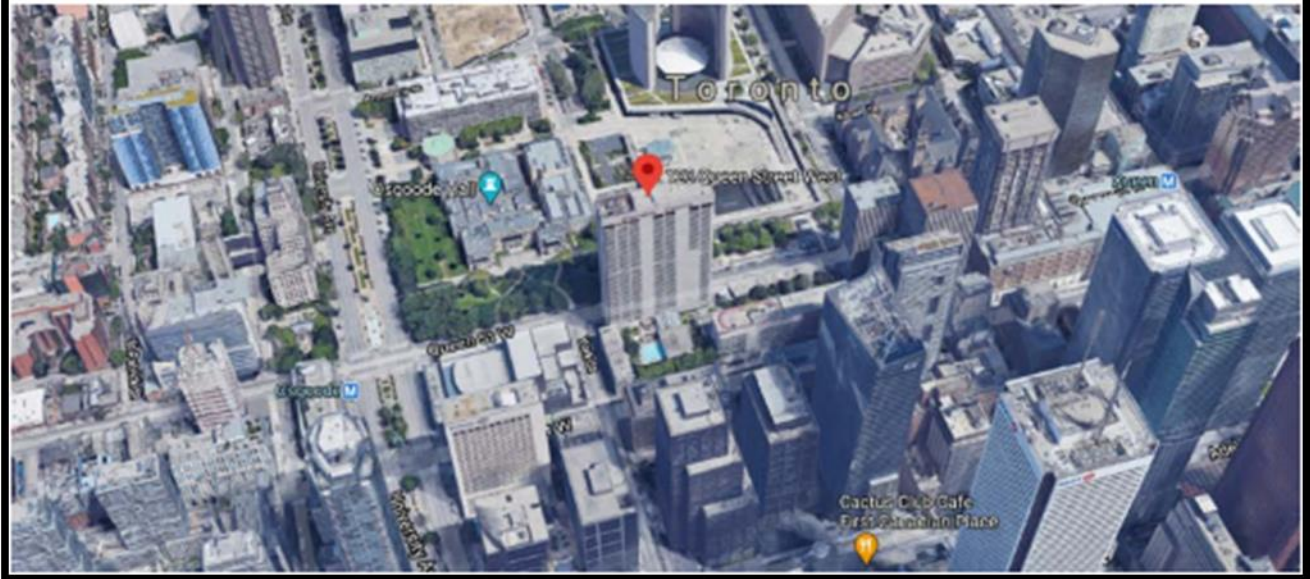
Contact Name: Shirley Chow – July 11, 2022

DAF Tracking No.: 2022-160	Date	Signature
Recommended by: Manager, Portfolio Management (acting) Van Hua	July 19, 2022	Signed by Van Hua
Recommended by: Director, Transaction Services Alison Folosea	July 20, 2022	Signed by Alison Folosea
<input type="checkbox"/> Recommended by: Executive Director, Corporate Real Estate Management <input checked="" type="checkbox"/> Approved by: Patrick Matozzo	July 20, 2022	Signed by Patrick Matozzo
<input type="checkbox"/> Approved by: Deputy City Manager, Corporate Services Josie Scioli		X

**Appendix "A" – Legal Description**

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

### Appendix "B" – Location Map



## Appendix "C" – Revised Terms and Conditions

**Extension Term:** 40 Years, commencing June 1, 2068 and expiring May 31, 2108. The Extension Term will be comprised of two revised rental periods: (i) the First 21 Year Extension Revised Rental Period (being the first 21 years of the Extension Term), and (ii) the Last 19 Year Extension Revised Rental Period (being the last 19 years of the Extension Term).

**Amendments to the Following Defined Terms:**

The term "**Value of the Site to the Developer**" as defined in Section 1.01(c) of the Ground Lease shall be amended by deleting the following: "provided, however, that notwithstanding anything contained in this sub-section (c) of Section 1.01, if at any time or times the value of the ENTIRE DEVELOPMENT SITE to the Lessee shall be re-stated by the Lessee and the amount thereof as re-stated be agreed to in writing by the Lessor and any MORTGAGEE, all in the manner contemplated by Section 6.02 hereof, the term "VALUE OF THE SITE TO THE DEVELOPER" shall mean the value of the ENTIRE DEVELOPMENT SITE to the Lessee as so re-stated and agreed to, effective upon the first day of the month next following the date when the amount as re-stated is so agreed to".

The term "**Affiliate**" shall mean with respect to any Person, any other Person that: (i) directly or indirectly, through one or more intermediaries, Controls or is Controlled by such first Person and such first Person has not less than 50% of the economic interests, directly or indirectly, in the other Person, or vice versa; or (ii) is directly or indirectly, through one or more intermediaries, Controlled by a Person that directly or indirectly, through one or more intermediaries, Controls such first Person and has not less than 50% of the economic interests, directly or indirectly, in the first Person and the other Person; provided that in the case of BSREP II Hospitality Toronto LP or an Affiliate of BSREP II Hospitality Toronto LP, "**Affiliate**" shall mean with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, Controls or is Controlled by Brookfield Asset Management Inc.

"**Control**" in respect of a Person means: (i) the ownership, directly or indirectly, of voting shares or interests in such Person carrying more than 50% of the votes attached to all voting shares or interests of such Person and which if exercised are sufficient to elect a majority of the board of directors, general partner(s) or trustee(s) of such Person; or (ii) the possession of the power or right to direct or cause the direction of the management and policies of such Person for day-to-day decision-making (excluding typical major decisions), whether directly or indirectly, and whether through ownership of voting shares or interests, by contract or otherwise; and

"**Controlled**" and "**Controlling**" have corresponding meanings and provided that in the case of BSREP II Hospitality Toronto LP or an Affiliate of BSREP II Hospitality Toronto LP, "**Control**" in respect of a Person means the possession of the power or right to direct or cause the direction of the management and policies of such Person for day-to-day decision-making (excluding typical major decisions), whether directly or indirectly, and whether through ownership of voting shares or interests, by contract or otherwise, and "**Controlled**" and "**Controlling**" have corresponding meanings.

"**Person**" means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, pension plan, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative."

**Percentage Rent Calculations:**

In the Percentage Rent calculations in Sections 2.03(ii), 2.04(ii), 2.05(ii) of the Ground Lease, the reference to "that percentage of any and all of the excess of the GROSS INCOME FROM THE DEMISED LANDS for each such year over six and one-half per cent (6 ½ %) of the VALUE OF THE SITE TO THE DEVELOPER which shall produce an amount equal to and which annual sum shall in any event be equal to" shall be deleted.

## Appendix "C" - continued

**Subletting and  
Assigning:**

Where the Lessor's consent is required for a sublet or assignment, the Lessee shall provide written notice to the Lessor of its intention to sublet or assign, together with reasonable particulars of the proposed transaction and such other details as may reasonably be required by the Lessor, the Ground Lease shall be in good standing, and the transferee shall agree to assume the Ground Lease obligations, amongst other matters; which consent to be provided within 90 days of receipt of required information or such longer period if Council approval is required.

**Re-Statement of  
Value:**

Section 6.02 of the Ground Lease be deleted in its entirety.

**Capital Projects:**

In the event that the Lessee has not completed a minimum of \$40 Million in Capital Projects by October 1, 2023 as a result of an unavoidable delay, as provided for in Section 8.01 of the Ground Lease, the Lessee shall notify the Lessor in writing on or before October 1, 2023 of the reason for the delay and the period of time within which the work was delayed, along with the certificate of the architect in charge of the Capital Projects confirming the reason and period of delay. The date of October 1, 2023 shall be extended in accordance with Section 8.01.

Notwithstanding any provision in this Agreement to the contrary, if the Lessee has not provided the Lessor with evidence satisfactory to the Lessor, acting reasonably, that Capital Projects with a minimum aggregate expenditure of \$40,000,000.00 have been completed on or before October 1, 2023 (subject to Section 8.01), the Lessee shall be in default of its obligations under the Ground Lease and the provisions of Article XV shall apply.

Subject to Section 8.01 of the Ground Lease, provided that the retail leasing market and hospitality industry recover to the pre-COVID levels, the Lessee covenants and agrees to expend a minimum of \$5,000,000 in the additional Capital Projects within 5 years, failing which the Lessee shall be in default of its obligations under the Ground Lease and the provisions of Article XV shall apply.

**Capital Project  
Expenditure Default:**

If the Lessee fails to complete a minimum of \$40 Million in Capital Projects by October 1, 2023 ("Capital Projects Expenditure Default") and such default is not remedied within thirty (30) days of the Lessor's notice of default (the "Extension Cancellation Notice"), the Lessor shall not be permitted to terminate the Ground Lease, but shall be permitted the right to cancel the First 21 Year Extension Revised Rental Period and the Last 19 Year Extension Revised Rental Period by delivery of written notice to the Lessee within thirty (30) days following the expiry of the 30 day cure period. If the Extension Cancellation Notice is not given with the said thirty (30) days, the Lessor's right to cancel the Extension Term is null and void, and the Lessor shall not be permitted to terminate the Ground Lease pursuant to Section 15.01 of the Ground Lease.

If a Capital Projects Expenditure Default occurs, the Lessee's mortgagee shall not be entitled to the additional 30 day cure period set out in Section 16.01 of the Ground Lease but shall be entitled to the notice described herein and the right to remedy the Capital Projects Expenditure Default within the 30 day period provided to the Lessee herein.