

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

TRACKING NO.: 2023-307

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

Prepared By:	Miles Argue	Division:	Corporate Real Estate Management
Date Prepared:	November 14, 2023	Phone No.:	416-397-7522

Purpose	To obtain authority for the City to enter into a Landlord Consent and Chargee Agreement and a Landlord Acknowledgement, pursuant to the terms of a ground lease dated April 20, 2018, as amended from time to time, (the "Ground Lease"). The Landlord Consent and Chargee Agreement is between the City (as landlord) and Menkes Waterfront Holdings Inc. (the "Nominee") and Menkes WIC GP Inc. in its capacity as general partner for WIC Limited Partnership ("Menkes") and Desjardins Financial Security Life Assurance Company ("Leasehold Chargee") to permit Menkes to charge its undivided 50% leasehold interest in the City owned lands of 125 and 155 Queens Quay East, also known as the Waterfront Innovation Centre.
Property	Those lands municipally known as 125 and 155 Queens Quay East, legally described as Block 1 on Plan 66M-2476, being all of PIN 21384-0290 (LT), and Block 2 on Plan 66M-2476, being all of PIN 21384-0292 (LT), in the City of Toronto (the "Property").
Actions	<ol style="list-style-type: none"> The City be authorized to execute a Landlord Consent and Chargee Agreement with: Menkes Waterfront Holdings Inc., as nominee for and on behalf of Menkes WIC GP Inc. in its capacity as sole general partner of WIC Limited Partnership (the "Nominee"); Menkes WIC GP Inc., in its capacity as sole general partner of WIC Limited Partnership ("Menkes") and Desjardins Financial Security Life Assurance Company (the "Leasehold Chargee") to consent to a Leasehold Charge from Menkes to the Leasehold Chargee, in respect of Menkes' undivided fifty (50%) percent interest in the Ground Lease, substantially on the terms set out in Appendix 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. The City be authorized to execute a Landlord Acknowledgement substantially on the terms set out in Appendix C and including such other terms and conditions as deemed appropriate by the approving authority herein, and in a form satisfactory to the City Solicitor. The City be authorized to execute any ancillary agreements and documents relating to the transaction, on 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.
Comments	<p>The Chief Financial Officer and Treasurer has reviewed this DAF and agrees with the information contained in this financial impact statement.</p> <p>The Waterfront Innovation Centre ("WIC") is a development project emerging out of the East Bayfront Business and Implementation Plan ("EBF BIP"), which received Council Approval in 2006, and grants "effective control" of City-owned lands in the East Bayfront Precinct to Waterfront Toronto, an arm-length agency co-funded by the City of Toronto, the Province of Ontario, and the Government of Canada.</p> <p>The recommended actions contained in this report are in response to a request by the City's Tenant under the Ground Lease which request is supported by Waterfront Toronto as a function of their ongoing carriage of the EBF BIP.</p> <p>The proposed transaction calls for the delivery and/or receipt of three key documents: (i) a Landlord Consent and Chargee Agreement; (ii) a Notice and Acknowledgement; and (iii) a Landlord's Acknowledgement. Further details outlining and describing these documents can be found on Page 4.</p> <p>The subject lands are within the Designated Waterfront Area. The Director, Waterfront Secretariat approves of this transaction.</p>
Terms	The Major Terms and Conditions of (i) the Landlord Consent and Chargee Agreement; (ii) the Notice and Acknowledgement; and (iii) the Landlord's Acknowledgement are set out below in Appendices A, B & C, respectively.

Property Details	Ward:	10 – Spadina-Fort York
	Assessment Roll No.:	1904064010011210000 & 1904064010011300000
	Approximate Size:	41 m x irreg m ± (143 ft x irreg ft ±) & 91 m x 36 m ± (298 ft x 118 ft ±)
	Approximate Area:	1,283 m ² ± (13,810 ft ² ±) & 3313 m ² ± (35,660 ft ² ±)
	Other Information:	

A.	Manager, Real Estate Services has approval authority for:	Director, Real Estate 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/REOIs:</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 & Parks & Open Space Areas of Official Plan:</p> <p>9. Leases/Licences (City as Landlord/Licensors):</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><input type="checkbox"/> (a) Acceptance of statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$50,000.</p> <p><input type="checkbox"/> (b) Request Hearings of Necessity.</p> <p><input type="checkbox"/> (c) Waive Hearings of Necessity.</p> <p>Delegated to more senior positions.</p> <p>Delegated to more senior positions.</p> <p>Delegated to more senior positions.</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 more senior positions.</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 more senior positions.</p> <p><input type="checkbox"/> Where total compensation does not exceed \$50,000.</p> <p>Delegated to more senior positions.</p> <p>Delegated to more senior positions.</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"/> (a) Acceptance of statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.</p> <p><input type="checkbox"/> (b) Request Hearings of Necessity.</p> <p><input type="checkbox"/> (c) Waive Hearings of Necessity.</p> <p><input type="checkbox"/> Issuance of RFPs/REOIs.</p> <p><input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.</p> <p>Delegated to more senior positions.</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/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. 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 each position 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 the Deputy City Manager, Corporate Services and any related documents.

Pre-Condition to Approval			
<input checked="" type="checkbox"/> Complies with General Conditions in Appendix B of City of Toronto Municipal Code Chapter 213, Real Property			
Consultation with Councillor(s)			
Councillor:	Councillor Ausma Malik	Councillor:	
Contact Name:	Tom Davidson	Contact Name:	
Contacted by:	Phone <input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Memo <input type="checkbox"/> Other <input type="checkbox"/>	Contacted by:	Phone <input type="checkbox"/> E-mail <input type="checkbox"/> Memo <input type="checkbox"/> Other <input type="checkbox"/>
Comments:	No Objections	Comments:	
Consultation with Divisions and/or Agencies			
Division:	Waterfront Secretariat	Division:	Financial Planning
Contact Name:	Merrilees Willemse	Contact Name:	Ciro Tarantino
Comments:	Concurs	Comments:	Concurs
Legal Services Division Contact			
Contact Name:	Kathleen A. Kennedy, solicitor		

DAF Tracking No.: 2023-307	Date	Signature
Concurred with by: Manager, Real Estate Services		X
<input checked="" type="checkbox"/> Recommended by: Manager, Real Estate Services Niall Robertson	Nov. 24, 2023	Signed by Niall Robertson
<input type="checkbox"/> Approved by:		
<input checked="" type="checkbox"/> Approved by: Director, Real Estate Services Alison Folosea	Nov. 27, 2023	Signed by Alison Folosea

Comments

continued from page 1:

Background: The Ground Lease

At its meeting on March 28 & 29, 2017, City Council approved a 99 year Ground Lease between the City and Menkes for the Property, also known as the Waterfront Innovation Centre. Prior to the Ground Lease being executed, Menkes had entered into a limited partnership with Alcion (WIC) GP Inc. for an undivided 50% interest.

By DAF 2020-086, the City gave its consent to an Assignment of Ground Lease from Alcion (WIC) GP Inc. to Sun Life Assurance Company of Canada ("Sun Life") such that the Freehold Lands were leased to the Menkes Waterfront Holdings Inc. (the "Nominee") as nominee for and on behalf of: (i) Menkes, as to an undivided 50% interest; and (ii) Sun Life, as to an undivided 50% interest; (collectively the "Tenant").

The Landlord Consent & Chargee Agreement

In order to secure ongoing financing, the Nominee and Menkes wish to charge Menkes' undivided 50% interest in the Leasehold Lands in favour of the Leasehold Chargee to secure certain obligations of Menkes to the Leasehold Chargee, pursuant to a leasehold charge.

The Tenant has given notice to the City that it wishes to designate the Leasehold Chargee as a "Preferred Leasehold Chargee" within the meaning of the Ground Lease. The Preferred Leasehold Chargee would be entitled to receive notice of any "event of default" under the Ground Lease, and be given an opportunity to cure any such default prior to the exercise by the City of any remedies to which it may be entitled under the Ground Lease.

Execution by the City of Landlord Consent and Chargee Agreement would provide the City's consent to the Leasehold Charge and the designation of the Leasehold Chargee as a Preferred Leasehold Chargee upon and subject to the terms and conditions set Appendix A.

The Notice and Acknowledgement

As Sun Life is not a party to the proposed Leasehold Charge or to the Landlord Consent and Chargee Agreement, Sun Life is prepared to provide a Notice and Acknowledgement to the city giving written confirmation that Sun Life seeks the City's consent for the Leasehold Charge and the designation of the Leasehold Charge as a Preferred Leasehold Chargee under the Ground Lease and confirms that Sun Life continues to be jointly and severally liable to the City together with the Nominee and Menkes (or the Leasehold Chargee as the case may be) for all Tenant obligations under the Ground Lease.

This document is intended to provide an acknowledgment to the City that a Leasehold Charge registered only against Menkes' 50% share does not sever the joint and several obligations of the Tenant parties or alleviate Sun Life of its obligation, even though a default event under the leasehold charge may be no fault of Sun Life.

The Landlord's Acknowledgement

The Tenant has requested that the City provide an acknowledgment confirming: (i) that the Ground Lease is in full force and effect; (ii) that the Tenant has complied, to the date therein, with the terms and conditions of the Ground Lease, (iii) the extent to which rents have been paid under the Ground Lease.

LOCATION MAP



APPENDIX "A"
LANDLORD CONSENT AND CHARGEE AGREEMENT
TERM SHEET

Parties	City of Toronto (Landlord)
	MENKES WATERFRONT HOLDINGS INC. as nominee for and on behalf of MENKES WIC GP INC. in its capacity as sole general partner of WIC LIMITED PARTNERSHIP ("Nominee") MENKES WIC GP INC. in its capacity as sole general partner of WIC LIMITED PARTNERSHIP ("Menkes"),
	DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY (Leasehold Chargee)
Property	Those lands municipally known as 125 and 155 Queens Quay East, legally described as Block 1 on Plan 66M-2476, being all of PIN 21384-0290 (LT), and Block 2 on Plan 66M-2476, being all of PIN 21384-0292 (LT), in the City of Toronto
Major Terms and Conditions	<ol style="list-style-type: none"> 1. The Landlord consents to the Leasehold Charge and the designation of the Leasehold Chargee as a Preferred Leasehold Chargee 2. This consent does not constitute a waiver of the necessity for consent to any further Transfer of the Ground Lease 3. the Landlord does not hereby acknowledge or approve of any of the terms of the Leasehold Charge 4. No severance of the obligations of each of the Nominee, Menkes and Sun Life to continue to be jointly and severally liable to the Landlord for the performance and fulfilment of all the Tenant agreements, covenants and obligations under the Ground Lease 5. The Leasehold Charge is fully subordinated and postponed to the Ground Lease. The Leasehold Chargee has no interest or rights in the Freehold Lands 6. The Landlord shall not exercise any of its rights or remedies against the Tenant consequent upon any Event of Default by the Tenant under the Ground Lease without notice to the Leasehold Chargee 7. the Landlord shall allow the Leasehold Chargee a period of thirty (30) days to cure any event of default by the Tenant - 8. If the Leasehold Chargee takes control or possession, or becomes the absolute owner of the estate and interest of Menkes, then the Leasehold Chargee shall observe and perform all the obligations of the Tenant under the Ground Lease 9. The Leasehold Chargee may assign or transfer the Leasehold Charge and this Agreement with the consent of the Landlord subject to satisfaction of certain terms and conditions 10. A sale, conveyance or assignment of the Landlord's entire interest in the Freehold Lands shall operate to release the Landlord from liability from and after the effective date thereof from all covenants, terms and conditions of this Agreement 11. The Landlord consent is conditional upon receipt of Sun Life's Notice and Acknowledgment (as described in Appendix B of this report). 12. The Landlord consent is effective from and after the registration of the Discharge of Charge of the Bank of Nova Scotia Charge registered on the Leasehold Lands on April 5, 2019 in the Toronto Land Registry Office as Instrument No. AT5108825;

APPENDIX "B" NOTICE AND ACKNOWLEDGEMENT TERM SHEET	
Parties From	SUN LIFE ASSURANCE COMPANY OF CANADA, the beneficial owner of an undivided fifty percent (50%) interest in the Ground Lease ("Sun Life")
Parties To	CITY OF TORONTO and TORONTO WATERFRONT REVITALIZATION CORPORATION
Property	Those lands municipally known as 125 and 155 Queens Quay East, legally described as Block 1 on Plan 66M-2476, being all of PIN 21384-0290 (LT), and Block 2 on Plan 66M-2476, being all of PIN 21384-0292 (LT), in the City of Toronto
Major Terms and Conditions	<ol style="list-style-type: none"> 1. Sun Life makes application to the Landlord for the Landlord's consent to the Leasehold Charge and confirms the designation of the Leasehold Chargee as a "Preferred Leasehold Chargee" within the meaning of the Ground Lease 2. Sun Life acknowledges that the consent of the Landlord (as set out in Appendix "A" of this report) above does not constitute a waiver of the necessity for consent to any further Transfer of the Ground Lease 3. No severance of the obligations of each of the Nominee, Menkes and Sun Life to continue to be jointly and severally liable to the Landlord for the performance and fulfilment of all the Tenant agreements, covenants and obligations under the Ground Lease

APPENDIX "C" LANDLORD'S ACKNOWLEDGEMENT TERM SHEET	
Parties From	CITY OF TORONTO
Parties To	Menkes Waterfront Holdings Inc. (the "Nominee"), as nominee for and on behalf of Menkes WIC GP Inc. in its capacity as general partner for WIC Limited Partnership, as to an undivided 50% interest and Sun Life Assurance Company of Canada, as to an undivided 50% interest
Property	Those lands municipally known as 125 and 155 Queens Quay East, legally described as Block 1 on Plan 66M-2476, being all of PIN 21384-0290 (LT), and Block 2 on Plan 66M-2476, being all of PIN 21384-0292 (LT), in the City of Toronto
Major Terms and Conditions	<p>The City, as Landlord under the Ground Lease acknowledges the following:</p> <ol style="list-style-type: none"> 1. The City is Party to a Ground Lease dated April 20, 2018 (the "Original Ground Lease") between City of Toronto (the "Landlord"), as landlord, and the Nominee, as nominee for and on behalf of Menkes WIC GP Inc. and Alcion (WIC) GP Inc., in their capacities as the general partners of WIC Limited Partnership (collectively the "Original Tenants") in respect of the Property; 2. The Ground Lease was assigned by Assignment of Ground Lease and Landlord Consent (the "Assignment") dated April 28, 2020 pursuant to which the Original Tenants assigned an undivided 50% interest in the Original Ground Lease to Sun Life and it was confirmed that Alcion (WIC) GP Inc.'s interest in WIC was redeemed and it was released from its obligations under the Original Ground Lease; 3. The Ground Lease was amended by a lease amending agreement dated April 28, 2020; 4. The Ground Lease is in full force and effect and has not been amended save as set out above; 5. The Tenant has complied with its obligations to date; 6. All Base Rent under the Lease has been paid in full for the Term as of this date