



**STAFF REPORT
ACTION REQUIRED**

**LAND LEASE RENEWAL
1011 DUFFERIN STREET**

Date:	January 10, 2007
To:	General Government Committee
From:	Chief Corporate Officer
Wards:	Ward 18 – Davenport
Reference Number:	P:\2007\Internal Services\F&re\ Gg07011F&re – kw/vb (AFS3743)

SUMMARY

The purpose of this report is to obtain approval for renewal of the land lease with the Tenant, Downing Street Holdings (1011 Dufferin Street) Inc.

Staff have negotiated a renewal rate for a further term of 33 years commencing January 1, 2006, subject to the terms and conditions as attached and described herein.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. Council grant authority for approval of a new rental rate with the Tenant, Downing Street Holdings (1011 Dufferin Street) Inc., based on the terms and conditions as attached and described herein, and in a form and content acceptable to the City Solicitor;
2. Council grant authority to the Chief Corporate Officer to administer and manage the lease agreement including provision of any consents, approvals, waivers, notices and notice of termination, provided that the Chief Corporate Officer may, at any time, refer for consideration of such matter to City Council for its determination and direction; and

3. Council authorize and direct the appropriate City Officials to take the necessary action to give effect thereto.

Financial Impact

The lease will result in a net rent income of approximately \$75,000.00 per year for a total of \$2,475,000.00 for the full lease term of 33 years. The Tenant will be responsible for all applicable taxes, assessments and costs to the leased lands.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

The demised land, located at the north east corner of Bloor Street West and Dufferin Street, has a site area of approximately 1,170 square metres (12,594.2 square feet) with a permanent underground easement for the TTC's subway. It is improved with a 3-storey building for commercial and residential uses which was built by the first tenant. The land lease is for a term of 33 years commencing January 1, 1973 and expiring December 31, 2005 at an annual rent of \$11,000, net, plus all applicable taxes and assessments, and has two (2) further renewal options, each of 33 years, with covenants similar to those in the lease, except for the rent which would be re-negotiated at the time of renewal and for the right for a further renewal thereafter.

The City approved on July 13, 2004 via Delegated Approval Form, Tracking No. 2004-082, an assignment of the land lease dated January 31, 1973, as amended by agreements dated September 22, 1976 and May 15, 1978, by President Asian Enterprises Inc., the mortgagee of the previous tenant, in favour of Downing Street Holdings (1011 Dufferin Street) Inc. (hereafter the "Tenant"), the purchaser, due to payment default of the previous tenant.

ISSUE BACKGROUND

Staff have negotiated a new rental rate for the next 33 year term and are recommending approval of the new rate.

COMMENTS

Agreement has been reached with the Tenant on the following terms and conditions as per attached proposal: (see Appendix 3):

1. Lease term:

33 years commencing January 1, 2006 and expiring December 31, 2038;

2. Annual Basic Rent:

\$75,000.00 per annum, net, plus GST and all applicable taxes, assessments and costs to the demised lands, payable in advance on the first day of January in each year, or \$79,200.00 at \$6,600 per month, plus GST, payable on the first day of each month if the tenant elects to pay rent monthly;

3. Increase in Gross Floor Area:

The tenant agrees that should the tenant at any time during the term increase the gross floor area or building area to more than the 28,972 square feet of density as existing, the annual basic rent will be increased proportionately upon the substantial completion of the construction for the increase. By way of example, if the gross floor area were to increase by five percent (5%) to 30,420 square feet, the annual basic rent (assuming the annual basic rent is \$75,000) would increase by 5% to \$78,750, and the increase will be in the same manner for the monthly rent if the tenant is paying in monthly instalments;

4. TTC Bus Waiting Area Improvements:

The tenant acknowledges that the TTC is planning to erect, within the next year or so, a canopy to protect TTC passengers waiting for buses on the sidewalk along Dufferin Street abutting the demised lands. The canopy will be designed either to be supported by the tenant's building or self-supporting but attached to the building for drainage purposes. The tenant agrees to work cooperatively with the TTC in the design, construction and installation of the canopy and agrees that it shall not impose any charge on the City or the TTC related to the integration of the canopy with the tenant's building, provided however that all construction affecting the building shall have the tenant's prior approval, and all costs related to the design, erection and installation of the canopy shall be at the expense of the TTC.

5. TTC Future Requirements:

The Tenant acknowledges that the building upon the Demised Land is encroaching into the TTC easement area including Parts 3, 6 and 9 on drawing C.A.R. Plan 51 as shown on a print of survey prepared by Wheeler Associates and attached to the second lease amending agreement. In consideration of the City and the TTC having permitted and continuing to permit the said encroachment, the tenant agrees to co-operate in facilitating the TTC's requirements.

The rent payments by the Tenant are up to date. As this City property is still registered as exempted from property tax, no property tax is paid.

The terms and conditions, with the rent representing market rent, are fair and reasonable and are acceptable to the Toronto Transit Commission.

CONTACT

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SIGNATURE

Bruce Bowes, P. Eng.,
Chief Corporate Officer

ATTACHMENTS

Appendix 1 - location plan
Appendix 2 - site plan
Appendix 3 - accepted proposal