



STAFF REPORT ACTION REQUIRED

Lease of Unit A, 348 Unwin Avenue for Solid Waste Management Services from City of Toronto Economic Development Corporation

Date:	December 15, 2008
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward No. 3 (Toronto-Danforth)
Reference Number:	P:\2008\Internal Services\F&re\Gm09004F&re – (AFS 9115)

SUMMARY

The purpose of this Report is twofold:

- to obtain Council's authority for the City, as tenant, to enter into a five year lease agreement with City of Toronto Economic Development Corporation, as landlord, for a parcel of vacant land known as Unit A, 348 Unwin Avenue for use by Solid Waste Management Services; and,
- to secure passage of a by-law to authorize the City to enter into a municipal capital facilities agreement with the landlord and to exempt the leased premises from taxation for municipal and school purposes.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. authority be granted to enter into a 5 year lease agreement (the "Lease") with respect to the parcel of vacant land known as Unit A, 348 Unwin Avenue (the "Leased Premises"), such Lease to be between the owner of the Leased Premises, City of Toronto Economic Development Corporation (the "Landlord") and City of Toronto, as tenant, substantially on the terms and conditions in Appendix "A" and on such terms and conditions as may be acceptable to the General Manager of

- Solid Waste Management Services and the Chief Corporate Officer, and in a form acceptable to the City Solicitor;
2. authority be granted for the General Manager of Solid Waste Management Services to utilize funds from its budget to make payments for the rent payable under the Lease, as stated herein;
 3. authority be granted to the Chief Corporate Officer to administer and manage the Lease, including the provision of any consents, approvals, notices and notices of termination provided that the Chief Corporate Officer may, at any time, refer consideration of such matter (including their content) to City Council for its determination and direction;
 4. Council pass a by-law pursuant to section 252 of the *City of Toronto Act, 2006*, providing authority to:
 - (a) enter into a municipal capital facility agreement with the Landlord in respect of Leased Premises for the operation of a wood chipping and garden waste processing facility by Solid Waste Management Services; and,
 - (b) exempt the Leased Premises from taxation for municipal and school purposes, which tax exemption is to be effective from the latest of the following dates: the commencement date of the Lease between the City and the Landlord; the date the municipal capital facility agreement is signed; and the date the tax exemption by-law is enacted;
 5. the City Clerk be directed to give written notice of the by-law to the Minister of Education, the Municipal Property Assessment Corporation, the Toronto District School Board, the Toronto Catholic District School Board, the Conseil Scolaire de District du Centre-Sud-Ouest, and the Conseil Scolaire de District du Catholique Centre-Sud; and,
 6. authority be granted for the introduction of the necessary bills to give effect to the foregoing.

Financial Impact

The total rent payable to the Landlord over the five year term of the Lease is \$1,369,856.25 including all charges and applicable taxes. The total cost to the City over the term of the Lease net of GST is \$1,304,625.00.

The following table reflects the rent payable over the term of the Lease:

Cost Centre	Rent Payable by Year (net of GST)					
	2008	2009	2010	2011	2012	2013
SW0767	\$19,906.25	\$238,875.00	\$241,171.87	\$266,437.50	\$268,734.32	\$269,500.00

This Lease is necessary as a result of a Ministerial Order from the Canadian Food Inspection Agency, discussed below, which was issued after the 2008 Budget approval. Required funding for 2008 and 2009 is available in the approved 2008 and 2009 Operating Budgets for Solid Waste Management Services (SWMS), Account SW0767-4530. Future year funding will be included in respective annual operating budgets for SWMS.

The annual property taxes on the Leased Premises to be occupied by Solid Waste Management Services are \$55,619.01, comprised of a municipal portion of \$28,803.81 and a provincial education portion of \$26,815.20, based on year 2005 Current Value Assessment (CVA) and 2008 tax rates. These amounts are based on the property being returned by MPAC for the 2008 tax year with a commercial (CT) assessment of \$1,362,350. This commercial classification assumes that there are permanent physical improvements to the property, which is erroneous. The Landlord has hired Altus Derbyshire to file appeals through section 40 of the *Assessment Act* to the Assessment Review Board to have this corrected for 2008. Once this is corrected through the assessment appeal, the property will be completely exempt from taxation.

As the City currently funds the requirements of Solid Waste Management Services (including any property tax liability) through an annual budget allocation, there would be no net impact on the municipal portion of taxes, as the decrease in municipal tax revenue of \$28,803.81 would be offset by a corresponding reduction in the annual budgetary requirement for the City. However, a tax exemption would result in net savings to the City of \$26,815.20 per year, representing the provincial education share of taxes that would no longer be payable once the exemption takes effect.

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

DECISION HISTORY

In response to the stockpile of quarantined materials in the spring of 2008, a 6 month Licence Agreement with the Landlord, in respect of the Leased Premises was approved via DAF No. 2008-146, commencing May 14, 2008 at a licence fee of \$19,906.25 per month plus GST. The 6 month Licence Agreement expired on November 30, 2008. As the processing of ash tree material is required throughout the yardwaste season and is expected to continue to be required in 2009 and beyond, Solid Waste Management Services has requested a 5 year lease with the Landlord for the continuation of its operation. The site is operating under a Provisional Certificate of Approval received from the Ministry of Environment for the transfer and processing of wood and yardwaste.

ISSUE BACKGROUND

In November of 2007, an infestation of emerald ash borer (EAB) was discovered in the Highway 404 and Sheppard Avenue area. On February 22, 2008, a Ministerial Order from Canadian Food Inspection Agency ("CFIA") was imposed on the City of Toronto, prohibiting the movement of ash trees and firewood from Toronto. In order to comply

with the Order, City staff were required to revise operating procedures for managing yard waste, collecting private sector wood waste, and for pruning and removing ash trees in parks and on city road allowances. As such, a grinding site to comply with the CFIA Order is required to process ash material prior to shipping to market.

COMMENTS

Negotiations have been conducted with the Landlord and, subject to the approval of City Council, agreement has been reached to lease 183,750 square feet of vacant land for a term of 5 years with an option to extend for an additional five (5) years. Terms and conditions of the proposed lease are set out in Appendix "A" attached to this report. The rent and other terms and conditions of Lease reflect current market value according to market research and valuation conducted by Facilities and Real Estate Division staff.

Properties "owned" and "occupied" by a municipal local board, including the City, are exempt from taxation pursuant to section 3 of the *Assessment Act*. However, where a property is tenanted by a municipality or local board this exemption does not apply and the property will generally be subject to property taxation. The municipal capital facilities provisions of the *City of Toronto Act, 2006*, allow that a property tenanted by the City will be exempt if prescribed conditions are met. Those conditions can be met in the circumstances of the subject Lease transaction.

The Landlord acknowledges that the City has the right in its discretion to request Council to exempt the Leased Premises from taxation for municipal and school purposes where the Leased Premises are used as a municipal capital facility, as defined in the *City of Toronto Act, 2006*..

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SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix "A" – Major terms and conditions
Appendix "B" – Location Map