

**Lease to Toronto Hydro Energy Services for  
Cogeneration Plant – 7 Leslie Street**

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| <b>Date:</b>             | April 28, 2009  |
| <b>To:</b>               | Government Management Committee                         |
| <b>From:</b>             | Chief Corporate Officer                                 |
| <b>Wards:</b>            | 32 – Beaches-East York                                  |
| <b>Reference Number:</b> | P:\2009\Internal Services\F&re\Gm09044F&re – (AFS 9951) |

**SUMMARY**

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The purpose of this report is to obtain City Council authority to enter into a ground lease agreement (“Lease Agreement”) with Toronto Hydro Energy Services (“TH Energy”) for the use of a portion of the Transportation Services yard at 7 Leslie Street for a Cogeneration Facility.

TH Energy proposes to design, construct, own and operate a Cogeneration Facility which utilizes biogas generated at the Ashbridges Bay Treatment Plant (ABTP) to generate electricity and thermal heat at the subject site. This Lease Agreement is for twenty two years, with two ten year renewal options.

**RECOMMENDATIONS**

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**The Chief Corporate Officer recommends that City Council:**

1. Authorize the Chief Corporate Officer to enter into a Lease Agreement with Toronto Hydro Energy Services (the “Tenant”) subject to the execution of the Energy Services Agreement between Toronto Water and TH Energy, to use and occupy approximately 29,200 square feet of land at 7 Leslie Street, (the “Rentable Area”), substantively on the terms and conditions set out in Appendix “A”, and on such other terms and conditions as approved by the Chief Corporate Officer, or his or her designate, and in a form acceptable to the City Solicitor.

2. Authorize the Chief Corporate Officer to provide consent on behalf of the City as Landlord any submission of applications required to be submitted by TH Energy for land use approvals.
3. Authorize the Chief Corporate Officer to provide consent on behalf of the City to the submission of any applications for required environmental approvals to the Ontario Ministry of Environment.
4. Authorize the Chief Corporate Officer to administer and manage the Lease Agreement 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 matters (including their content) to City Council for its determination and direction.

### **Financial Impact**

TH Energy will lease approximately 29,200 square feet of vacant land from the City for a total of \$73,000 per annum for the first five years, and then increase by 12.5 % every five years thereafter. The estimated total net rental revenue for the first 22 years is \$1,991,000. The Tenant is responsible for all capital and operational costs, so that the Lease Agreement is fully net and carefree to the City.

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

### **DECISION HISTORY**

At its May 17, 18 and 19, 2005 meeting, City Council adopted the recommendation from the Policy and Finance Committee authorizing staff to negotiate agreements with TH Energy to undertake cogeneration projects at Dufferin Transfer Station, Ashbridges Bay Treatment Plant, Thackeray Road Landfill and Highland Creek Treatment Plant. The decision document can be found at:

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050517/cofa.pdf>

At its March 3, 4 and 5, 2008 meeting, Council approved Motion M17.8 which re-affirmed the original motion but substituted the Thackeray Landfill with the Green Lane Landfill. This motion also refers to TH Energy agreeing to compensate the City by sharing any revenues, payments or other subsidies to be generated through the development and operation of projects of this nature. Any funds to be received through the development and operation of the cogeneration project are to be first applied to ensuring that there is no increase in City divisional Operating or Capital costs and second, towards other Council-approved initiatives that would reduce air pollution and greenhouse gas emissions. The decision document can be found at:

<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-03-03-cc17-dd.pdf>

## **ISSUE BACKGROUND**

TH Energy and Toronto Water have been in discussions for more than two years regarding the potential to use biogas produced in the digesters at the ABTP to fuel a Cogeneration Facility. Negotiations have centered primarily on the development of a financial model to assess the net financial cost and benefits to Toronto Water as well as the development of Commercial Principles that could form the basis of an eventual Energy Services Agreement. Development costs to date, including preliminary engineering and biogas analysis have been funded by TH Energy.

The City of Toronto's Clean Air and Sustainable Energy Action Plan sets out targets for the reduction of greenhouse gas emissions as well as the development of a plan to procure electricity from green energy sources. This Plan requires that 25% of City of Toronto's corporate electricity be sourced from renewable generation, which is approximately 550,000 MWh annually. The development of this cogeneration project will contribute towards achieving this target.

The Ministry of Energy has recently introduced Bill 150, the Green Energy Act. This Act revises a number of existing Acts and Regulations and provides the Minister with powers to direct the Ontario Power Authority (OPA) to provide a Feed-In Tariff (FIT) program for renewable energy sources (e.g. wind, photovoltaic, biogas and biomass). The proposed Cogeneration Facility using ABTP biogas positions the City of Toronto as a leader in this new program and a supporter of initiatives that address Climate Change.

Toronto Water and TH Energy are finalizing the details of the Energy Services Agreement. In the meantime, it is imperative for TH Energy to submit applications to OPA to take advantage of beneficial rates offered under a time-limited program. The deadline for submitting applications is June 2009, and a pre-condition of this application process is demonstrating a commitment to construct the cogeneration plant. This Lease Agreement demonstrates that commitment to OPA.

## **COMMENTS**

The Lease agreement is for twenty two (22) years, plus two (2) ten (10) year renewal options. This term recognizes both the lifespan of the plant and the requirements of OPA. The lease Agreement is subject to the execution of the Energy Services Agreement between Toronto Water and TH Energy.

The proposed Cogeneration Facility is consistent with City Council's approved initiatives, and provides both financial and non financial benefits to the City. To meet the requisite deadlines and to ensure the initiatives progress, a Lease Agreement with TH Energy is required. Further, the Chief Corporate Officer requires authority to provide consent to TH Energy submitting site-plan and minor variance applications for the City-owned property, as well as any applications TH Energy must make to the Ministry of Environment for approval of noise and air emissions.

Facilities and Real Estate staff have been working with Transportation Services and Toronto Water staff, and both parties approve the terms of the Lease Agreement. The Property was declared surplus by Delegated Approval Form 2009-061. As part of this transaction, TH Energy will make site alterations to the existing Transportation yard to the satisfaction of Transportation Services to ensure compatibility of the two uses.

The proposed cogeneration facility requires consent of the Toronto Port Authority for the location and exterior appearance of the building on the Property, in accordance with Instrument No. 62612ES. The City in co-operation with TH Energy, has submitted a request to Toronto Port Authority, which also is a Community Review Agency on any site plan/minor variance application submitted by TH Energy for the project.

As part of the companion Energy Services Agreement, TH Energy will also be installing electrical and gas transmission equipment connecting the ABTP and the Cogeneration Facility. These connections will be addressed in greater detail in the Staff Report to be submitted by Toronto Water for the approval of the Energy Services Agreement.

Facilities and Real Estate staff consider the terms and conditions of this agreement to be fair, reasonable and at current market rates.

## **CONTACT**

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## **SIGNATURE**

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Bruce Bowes, P.Eng.  
Chief Corporate Officer

## **ATTACHMENTS**

Appendix “A” – Major Terms & Conditions, 7 Leslie St.  
Appendix “B” – Location Map