MOTION WITHOUT NOTICE

Yonge Dundas Redevelopment Project – Consent to Assignment by Penex Metropolis Ltd. – 10 Dundas Street East

Moved by: Councillor Rae
Seconded by: Mayor Miller

SUMMARY:

The Toronto Life Square development at 10 Dundas Street East is part of the Yonge Dundas Redevelopment Project. When the Project was undertaken, the City entered into complex agreements with the developer and with Ryerson University in connection with the development of this site. The current owner of the development, Penex Metropolis Ltd., is proposing to sell to Toronto YDPC GP Inc. as general partner of a limited partnership known as Toronto Yonge-Dundas Properties Canada Limited Partnership. Although most of the obligations in the original agreements have been completed and fulfilled, a few continue, so Penex has asked the City to consent to the assignment of the related agreements to the purchaser.

One ongoing obligation requires Penex to guarantee to Ryerson University that a certain level of revenue will be generated at the parking garage located on the site; the guarantee is backed by a letter of credit from Penex to Ryerson. However, when the deal was first struck, Ryerson insisted on even more security, and so the City agreed to backstop Penex’s guarantee – if at any time Penex failed to make a required payment on the parking revenue guarantee, the City would have to pay to Ryerson any deficiency. The City, in turn, took security from Penex for the City’s guarantee to Ryerson in the form of a collateral mortgage, which secured this obligation as well as other amounts owed by Penex to the City. The extent and duration of the guarantee is uncertain, but could be as much as $750,000.00, and could continue for up to twenty years.

As part of the sale, Penex will be paying the City almost $10,000,000.00 for monies owing pursuant to the original agreements, which sum until now has been secured by the same collateral mortgage. In return, Penex wants the mortgage discharged from title. However, if the mortgage is discharged, the City will no longer hold any security for its ongoing guarantee of the owner’s obligations to Ryerson regarding the parking garage revenue. So far, neither Penex nor the purchaser has proposed any alternative security that staff are prepared to recommend to Council.

The deal is scheduled to close in October, and it is urgent that Council provide its consent to the assignment.
RECOMMENDATIONS:

1. That City Council grant its consent to the assignment of the City’s agreements relating to the development at 10 Dundas Street East from Penex Metropolis Ltd. to Toronto YDPC GP Inc. as general partner of a limited partnership known as Toronto Yonge-Dundas Properties Canada Limited Partnership, provided that alternate security for the City’s guarantee is received in a form that is satisfactory to the Deputy City Manager and Chief Financial Officer and the City Solicitor.

2. That City staff be authorized and directed to take the necessary steps to give effect thereto.

September 24, 2008

According to Chapter 27, Council Procedures:

| Fiscal Impact Statement provided |  |
| Should have Fiscal Impact Statement prior to debate | * |
| Requires two-thirds to waive requirement if Council wishes to debate |  |
| Is before Council for debate | (v) |
| Chair agrees that the Motion Recommendations are Urgent | (v) |

* Deputy City Manager and Chief Financial Officer to advise.