TORONTO

STAFF REPORT
ACTION REQUIRED

Amendment to Terms of Lease Agreement between City and Medallion Corporation – 45 Lisgar Street

Date:	April 11, 2012
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 18 – Davenport
Reference Number:	P:\2012\Internal Services\RE\Gm12020re (AFS #15588)

SUMMARY

The purpose of this report is to obtain Council authority to amend the lease terms approved by Council as part of a Section 37 Agreement under the Planning Act for property located at 45 Lisgar Street.

The amendment to the lease terms is required to expedite the move of Toronto Public Health (TPH) from 1115 Queen Street West (Carnegie Library) to 45 Lisgar Street so that The Theatre Centre does not forgo the conditional $0.5 M of funding from the Ontario Trillium Foundation (OTF) it would receive for the retrofitting of the Carnegie Library to the new home of The Theatre Centre.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council authorize amendments to the lease terms and conditions noted in Schedule "A" of Attachment 1 in Motion M162 adopted at the October 22 and 23, 2007 Council meeting to enable the City to include the fit-up of the City space in the Lease, such amendments to be on terms and conditions deemed appropriate by the Chief Corporate Officer, in a form acceptable to the City Solicitor, and conditional upon the Chief Corporate Officer first approving the fit up cost of the City Space;

2. City Council authorize the Chief Corporate Officer to provide consent on behalf of the City as Landlord under the 1115 Queen Street West BMR Lease with The Theatre Centre for any submission of applications required to be submitted by the Tenant for land use or planning approvals, or such consents as may be required in relation to any existing easement agreements affecting the City Land;

3. City Council authorize amendments to the BMR Lease Agreement between the City of Toronto and The Theatre Centre governing 1115 Queen Street West, if necessary to accommodate the proposed changes and use, on terms deemed appropriate by the Chief Corporate Officer and in a form acceptable to the City Solicitor;

4. The Chief Corporate Officer and the Director of Real Estate Services be severally authorized to execute the 45 Lisgar Lease amending agreement on behalf of the City;

5. The Chief Corporate Officer be authorized to administer and manage the amended Lisgar 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 matters (including their content) to City Council for its determination and direction; and

6. The City Solicitor be authorized to complete the transaction on behalf of the City, including paying any necessary expenses, amending dates, and amending and waiving terms and conditions, on such terms as she considers reasonable.

Financial Impact

The 2012 Approved Capital Budget and 2013-2021 Capital Plan for Facilities Management and Real Estate includes funding of $1,725,000 in capital account CCA180-03 for the relocation of Toronto Public Health. This funding is for all costs associated with the move including design, administration and relocation.

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

DECISION HISTORY

City Council at its meeting of September 26 and 27, 2007, provided instructions to staff to further discuss the outstanding OMB issues with the owner of 45 Lisgar Street, and to prepare a report requesting further instructions. At its meeting of October 22 and 23, 2007 City Council adopted the staff recommendations (without amendment) contained in the report (Motion 162, October 23, 2007) from the City Solicitor, the Executive Director, Toronto Culture, and the Acting Chief Planner and Executive Director, City Planning. The attachment contained in M162 outlined some of the terms and conditions for the lease agreement between the City and Medallion Corporation:
http://www.toronto.ca/legdocs/mmis/2007/cc/minutes/2007-10-22-cc13-mn.pdf

On March 31, 2010, City Council approved a lease agreement between The Theatre Centre and the City for the occupation and use of 1115 Queen Street, following the relocation of TPH to 45 Lisgar Street:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.GM29.12

The Theatre Centre has secured conditional grants of $1.8M from the Federal Government, $1.2M from the Province and $500,000 from the Ontario Trillium Foundation for the conversion of 1115 Queen Street West. To be eligible for the Ontario Trillium Foundation grant, The Theatre Centre must expend $1M in construction expenses by December 31, 2012 on the Carnegie Library facility. The Medallion Corporation has had several construction delays in completing 45 Lisgar Street building, including the space within which TPH is to be relocated. Based on discussions and a recent site visit, Facilities Management staff estimate that the City will not be able to able to start fit-up of the City space until September or early October. This means that that TPH will not be able to vacate 1115 Queen Street West in time for The Theatre Centre to start construction, thereby jeopardizing the Ontario Trillium Foundation funding.

Facilities Management and Real Estate Services have analyzed the impact of The Theatre Centre grant requirements and the fit-up of the City space at 45 Lisgar Street, and are of the opinion that the developer Medallion Corporation has a higher probability of successfully meeting the tight timelines and budget requirements as their contractors are already mobilized on site and can be used to construct the fit-up of the City space concurrently with their overall schedule to finish the overall building which is targeted for end of August 2012.

ISSUE BACKGROUND

As part of a settlement agreement following a lengthy Ontario Municipal Board hearing and secured through a Section 37 agreement, City Council has previously approved the plan to adaptively reuse the city-owned heritage building known as the Carnegie Library, located at 1115 Queen Street West as a performing arts hub which will be home to The Theatre Centre and which would be the focal point within the redeveloped West Queen West neighbourhood. Currently, the building is occupied by TPH which will be relocated to 45 Lisgar Street.

The Section 37 contributions for the relocation amount to a total of $1.25 million with $250,000 to be used to relocate Toronto Public Health to 45 Lisgar Street when construction is complete in 2012. The remaining $1 million will be used to aid in the renovation of the former Carnegie Library into a performing arts hub. Toronto Public Health will lease the designated space at 45 Lisgar Street for a term of 25 years with a single option to renew for an additional 25 years less a day (total term of 50 years less a day) for nominal value net rent. Through a Municipal Capital Facility exemption, Toronto Public Health will not be responsible for any property taxes for the leased space. Toronto Public Health will be responsible for operating and maintenance costs associated with the space as well as its proportionate share of the common elements within the building that it utilizes.

COMMENTS

The Theatre Centre has spent the past 30 years making a contribution to the community and fulfilling its mission to develop, create and promote innovative, interdisciplinary and accessible high quality theatre through the creative collaboration between artists, staff and audience. The Theatre Centre has successfully raised $3.5 M from the Federal and Provincial government for the retrofitting of the Carnegie Library, however, the Ontario Trillium Foundation grant is conditional on The Theatre Centre spending $1 M in capital construction before 2012 year end.

The amendment to the lease terms is required to expedite the move of Toronto Public Health from 1115 Queen Street West (Carnegie Library) to 45 Lisgar Street so The Theatre Centre does not forego the $0.5 M in funding from the Ontario Trillium Foundation. Real Estate and Legal staff are in the process of finalizing the long-term lease agreement with Medallion Corporation, and require Council authorization to amend the terms of the lease to allow Medallion to complete fit-up of City space concurrently with the completion of its own building work. This will minimize delays caused by late occupancy as well as Ministry of Labour constructor issues related to more than one contractor carrying out construction work on a site. Toronto Public Health have an approved capital budget for the proposed renovations, and have been working with Facilities Management on a design for the facilities that are satisfactory to Toronto Public Health and meet City facility standards. These space designs will form the basis for the amendments to the lease.

CONTACT

Joe Casali
Director, Real Estate Services

Tel: 416-392-7202
Fax: 416-392-8565
jcasali@toronto.ca

SIGNATURE

_____

Bruce Bowes, P.Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix “A” Location map

SCHEDULE "A"

AERIAL AND STREET VIEW OF 1115 QUEEN STREET WEST AND 45 LISGAR STREET



1115 Queen St W **45 Lisgar St**

