

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: April 27, 2009

SUBJECT: PURCHASE AUTHORIZATION – LEASE OF RETAIL SPACE AT
VARIOUS SUBWAY STATIONS

ACTION ITEM

RECOMMENDATION

It is recommended that the Commission approve the execution of the following lease agreements:

1. Transit Café Inc. for the lease of space for a bakery at Bathurst (B location) Station and a bakery at Warden Station for five year terms. The proposed lease agreements will provide a guaranteed rental amount of \$850,000, (plus GST) for the entire lease term and capital improvements in the range of \$175,000 to \$200,000 for both locations.
2. Fit for Life for the lease of space for a café at Bathurst (A location) Station and a café at Dundas Station for five year terms. The proposed lease agreements will provide a guaranteed rental amount of \$464,935 (plus GST) for the entire lease term and capital improvements in the range of \$600,000 for both locations.
3. The Daily Perk Coffee Company Ltd., for the lease of space for a bakery/café at Spadina Subway Station for a ten year term, plus an option for an additional five years. The proposed lease agreement will provide a guaranteed rental amount of \$1,260,000 (plus GST) for the ten year lease term and capital improvements of \$135, 500.
4. Tarts, Treats & Coffee for the lease of space for a coffee/donut shop at Kipling Subway Station for a ten year term, plus an option for an additional five years. The proposed lease agreement will provide a guaranteed rental amount of \$630,000 (plus GST) for the ten year lease term and capital improvements in the range of \$350,000 to \$400,000.

FUNDING

The proposed five year lease agreements for the four retail locations at Bathurst A, Bathurst B, Dundas and Warden stations will provide minimum guaranteed rental revenue to the Commission in the amount of \$1,314,935 (plus GST). For the first lease term, this represents an 89.3% increase in annual rental revenue from the current rent being received. In addition, these lease agreements will provide the Commission with approximately \$800,000 in capital improvements to these locations.

The proposed ten year lease agreements for the two new retail locations at Kipling and Spadina stations will provide minimum guaranteed rental revenue to the Commission in the amount of \$1,890,000 (plus GST). In addition, this will provide the Commission with approximately \$535,500 in capital improvements for these locations.

DISCUSSION

Twenty-one companies were invited to submit proposals in addition to the public advertisement on the TTC Website on October 30, 2008, out of which six companies submitted a proposal as summarized in Appendix 'A'.

A Request for Proposal (RFP) was issued for the lease of space for cafe/bakery at Warden, Bathurst A, Bathurst B, Dundas, Kipling, Eglinton West and Spadina Stations. The RFP indicated that the Commission would award a five year contract to commence upon notification of award, with an option to renew for an additional five year period, at the Commission's sole discretion, subject to the company's satisfactory performance and acceptance of negotiated rates.

The RFP indicated that the spaces offered for lease were in their present condition at the existing locations that included Bathurst A & B (one bakery and one café), Warden (bakery) and Dundas (café or bakery). The RFP also indicated that the spaces for lease at Kipling, Eglinton West and Spadina Stations were empty spaces, and the Commission would accept any food-related/retail business for operation. All costs arising from the preparation of the space for occupancy will be the responsibility of the tenant. The tenant will be responsible for all costs of changing the premises from their present appearance to any proposed new appearance.

The RFP requested proponents to submit a minimum guaranteed rental offer for specific rental terms, which included a guaranteed rent, percentage rent or a combination of the two. Proponents had the option to bid on all or any number of locations and the award of a contract(s) would be based on compliant proposals that offered the highest rental offer.

Upon the initial review of the bids, the bids received from the Daily Perk Coffee Company Ltd. (Daily Perk) contained an error for their offer at Kipling Station. TTC Legal provided an opinion and based on this, their bid for this location (only) was considered commercially non-compliant and not considered further.

Transit Café Inc. (Gateway Newsstands/Tobmar Investments - operating as Transit Café - submitted the highest overall offer (guaranteed minimum rent) to the Commission for the lease of a bakery at Bathurst (B) Station and a bakery at Warden Station. They also indicated that percentage rent of 18% shall apply when gross sales exceed the base rent. Transit Café Inc. (Transit) did not state any exceptions or qualifications to the Commission's General Terms and Conditions, or willingness to execute the Commission's Standard Retail Lease Agreement. Their bid is considered commercially and technically acceptable. Transit is a current tenant for other retail leases and has a good performance rating. Their proposal is recommended for acceptance for a five year term to commence upon notification of award, with an option to renew for an additional five years, at the Commission's sole discretion subject to their performance and negotiated rates on the basis of highest overall offer to the Commission for these locations.

Fit for Life (FFL) submitted the highest overall offer (guaranteed minimum rent) to the Commission for the lease of a café at Bathurst (A) Station and a café at Dundas Station. They did not state any exceptions or qualifications to the Commission's General Terms and Conditions, or willingness to execute the Commission's Standard Retail Lease Agreement. Their bid is considered commercially and technically acceptable.

Their proposal is recommended for acceptance for a five year term to commence upon notification of award, with an option to renew for an additional five years, at the Commission's sole discretion subject to their performance and negotiated rates on the basis of a highest overall offer to the Commission for these locations.

Tarts, Treats & Coffee (Tarts) submitted the highest overall offer to the Commission for the lease of a coffee/donut shop at Kipling Station. Tarts stated qualifications to Article 4 (Percentage Rent), Article 5 (Landlord's Option) and Article 11 (Remedies) of the Commission's Standard Retail Lease Agreement. These qualifications were reviewed by staff and are considered acceptable. Tarts' bid is considered commercially and technically acceptable.

Tarts offered a 10 year lease with an option to renew for an additional 5 years. Since Kipling is offered as empty space, and Tarts is responsible for all costs of building a new location, they have offered a 10 year lease agreement, with an option to renew for an additional 5 years, in order to recapture their costs. This was reviewed by staff and their bid is considered commercially acceptable. Tarts are a tenant for other retail leases and have a good performance rating. Their proposal is recommended for acceptance for a ten year term to commence upon notification of award, with an option to renew for an additional five years, at the Commission's sole discretion subject to their performance and negotiated rates on the basis of highest overall offer to the Commission for this location.

The Daily Perk Coffee Company Ltd. (Daily) submitted the highest overall offer (guaranteed minimum rent) to the Commission for the lease of a bakery/café at Spadina Station. Daily also indicated that a percentage rent of 12% shall apply when gross sales exceed the base rent. Daily stated a qualification to Section 4.07 (Annual Audited Gross Sales Statement) of the Commission's Standard Retail Lease Agreement, which is considered acceptable.

Daily offered a 10 year lease with an option to renew for an additional 5 years. Since Spadina is offered as empty space, and Daily is responsible for all costs of building a new location, they have offered a 10 year lease agreement, with an option to renew for an additional 5 years, in order to recapture their costs. Staff reviewed this and Daily's bid is considered commercially acceptable. Daily is a tenant for another retail lease and have a good performance rating. Their proposal is recommended for acceptance for a ten year term to commence upon notification of award, with an option to renew for an additional five years, at the Commission's sole discretion subject to their performance and negotiated rates on the basis of a highest overall offer to the Commission for this location.

The remaining two bidders offered lower rent, they did not state any exceptions or qualifications in their submissions and are all considered commercially acceptable. (Refer to Appendix A for remaining bidders). There were no bids received for the lease of space at Eglinton West Station.

JUSTIFICATION

The proposed five and ten year lease agreements will provide minimum guaranteed rental revenue to the Commission in the amount of \$3,204,935 (plus GST). In addition, the new lease agreements will provide the Commission with capital improvements of up to \$1,335,500. The lease of these retail spaces will best serve TTC customers and is considered the highest and best use of the space.

April 14, 2009

Attachment: Appendix 'A'

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APPENDIX 'A'

PURCHASE AUTHORIZATION – LEASE OF RETAIL SPACE IN VARIOUS SUBWAY STATIONS

PROPOSAL SUMMARY

Station	Transit Café ⁽¹⁾	Fit For Life ⁽²⁾	Tarts, Treats & Coffee ⁽³⁾	The Daily Perk Coffee Company Ltd. ⁽⁴⁾	(2126724 Ont. Ltd.) Bagel World	Country Style Food Services Inc.
Warden - bakery	\$450,000	\$234,295		\$312,000		
Bathurst A - cafe	\$120,000	\$204,790				\$175,000
Bathurst B - bakery	\$400,000	\$289,604				
Dundas – café/bakery		\$260,145			\$115,000	\$150,000
Kipling – café/bakery	\$200,000		\$630,000	*		\$200,000
Spadina – café/bakery				\$1,260,000		
Eglinton West – café/bakery						
Recommended Total Rent Amounts (plus GST)	\$850,000 (5 Years)	\$464,935 (5 Years)	\$630,000 (10 Years)	\$1,260,000 (10 Years)		
Total Capital Improvements	\$175,000 - \$200,000	\$600,000	\$350,000 - \$400,000	\$135,500	-	-

* Non-compliant bid for Kipling Station