

Treasurer's Report on a Material Lease

Background

Ontario Regulation 653/05, under the *Municipal Act, 2001* requires the Regional Treasurer to prepare a report to Council for material leases. The report must contain the Treasurer's assessment of the costs and financial and other risks associated with the proposed agreement. The regulation also indicates that municipal councils must provide a statement of policies and goals which may provide for a category of lease financing arrangements which in the opinion of the Treasurer and Council does not result in a material impact for the municipality.

As such, Regional Council approved the Corporate Financing and Debt Policy in 2006 which defined a material lease as having payments in excess of \$250,000 a year. A policy update approved in September 2008, (Clause 8, Report No.7 of Finance and Administration Committee) extended the definition of a material lease as having a net present value of \$2.0 million.

Lease under Consideration

Council authorization is being sought to enter into two leases to rent condominium space at 16945 Leslie Street in Newmarket for units 4 to 8 comprised of 5,361 square feet, and units 27 to 30 comprising 4,284 square feet respectively. These spaces will be used to relocate the Health Connection and Contact Centre offices from the South Services Centre and to consolidate and provide sufficient room for a staff training area for the Emergency Medical Services Branch.

The leases will have a five year term will be identical in all respects excepting municipal addresses, unit sizes and rent amounts payable due to size differences. The base rent cost will be \$21.55 per square foot per year (plus GST) for the first 24 months and a base rent cost of \$22.55 per year (plus GST) for the final 36 months. Additional rent to the Region is based on its proportionate share of the building expenses, including property taxes, common area utilities, maintenance, snow removal, building insurance, management expense, and all other expenses incurred in the operation of the building. This additional rent which is currently estimated by the landlord to be \$5.50 per square foot (plus GST) shall be adjusted from time to time based on actual expenses. On this basis, assuming no increase in the additional rent, annual payments including GST will be \$273,941 for the first two years and \$284,069 in years 3-5.

The landlord will complete the leasehold improvements at his cost. The base rents include the amortised repayment of the leasehold improvements.

The lease contains the right to renew for one five year term at then current market rates.

The Region's obligations under the Offer to Lease include:

- Paying first and last month's rent deposit totalling \$46,500.96;
- Paying the landlord a non-refundable payment of \$25,000 for the production of architectural plans if the lease is not executed by February 28, 2009;
- Paying for own in-suite heat, hydro and equipment maintenance;
- Carrying content insurance; and
- Maintaining premises in reasonable condition.

Analysis of Lease

Ontario Regulation 653/05 requires the Regional Treasurer to comment on specific aspects of the proposed lease. These aspects are noted below with the appropriate analysis of each requirement. The lease itself has not been analysed as it was not available. Legal staff has advised they will not approve the final lease document until such time as the Regional Treasurer has concurred with provisions of the lease and is satisfied as to its requirements.

A comparison between the fixed and estimated costs associated with proposed agreement and those associated with other methods of financing.

Property Services have advised that they have conducted a market review of comparable space in the Newmarket and Aurora areas and that this is the only site available that meets the space requirements of the Region, is in good repair and is reasonably priced. Additionally, renting the subject spaces will give the Region flexibility to relocate these operations to other Regionally owned buildings which may become available by 2014.

Although there is an option to purchase the subject spaces, Property Services has recommended not purchasing the spaces due to significant down payment requirement, the lack of control over the maintenance program in a condominium setting and the lack of flexibility over the long term use of the spaces if other Regionally owned properties become available.

A statement summarizing, as may be applicable, the effective rates of financing of the agreement, the ability for agreement payment amounts to vary, and the methods or calculations, including possible financing rate changes, that may be used to establish that variance under the agreement.

The base rent amounts of the lease are set for the entire term of the lease. The additional rent is variable as it is based on actual costs incurred and the proportionality of the space occupied by the Region. These are industry standard terms. It is recommended as per the Region's standard practice the final lease contains a clause allowing the Region the right to review the actual expenses reported upon to determine their reasonableness.

A statement summarizing any contingent payment obligations under the agreement that in the opinion of the Treasurer would result in a material impact for the municipality, including termination provisions, equipment loss, equipment replacement options, and guarantees and indemnities.

Legal Services advises the Offer to Lease does not contain any contingent payment obligations. It is a requirement of this report that Legal Services will be required to approve the finalized leases prior to their execution by the Region. Legal Services has agreed they will not provide this authority without the concurrence of the Regional Treasurer that the final lease contains no material termination provisions, contingent liabilities, or indemnities, or lease escalation clauses not in line with normal commercial practice.

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