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LEASE EXTENSION FOR COMMUNITY AND HEALTH SERVICES, PUBLIC HEALTH BRANCH AT 4261 HIGHWAY 7 EAST IN MARKHAM

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated October 20, 2009, from the Commissioner of Corporate Services.

1. RECOMMENDATIONS

It is recommended that:

1. The Region be authorized to enter into a lease extension for a five-year term, commencing on December 1, 2009 with Transmark Developments Ltd., for Community and Health Services, located at 4261 Highway 7 East, in the Town of Markham, consisting of 14,022 square feet, for an approximate annual rent of $281,229.

2. The Regional Chair and the Regional Clerk be authorized to sign a lease extension agreement with Transmark Developments Ltd., subject to the approval of Legal Services and the Regional Treasurer.

3. The Commissioner of Corporate Services and the Commissioner of Community and Health Services be authorized to sign a lease termination agreement, if required, subject to review by Legal Services.

4. The Commissioner of Corporate Services and the Regional Treasurer be authorized to sign a lease extension agreement with the landlord, if required, for an additional five-year term, after November 30, 2014, at the then current market rent, for the above-noted lease, subject to review by Legal Services.

2. PURPOSE

The purpose of this report is to seek Council authorization to renew the existing lease for an additional five years with an option for an additional five years, to continue delivery of Public Health programs in the south east quadrant of the Region.

3. BACKGROUND

The Community and Health Services, Public Health Branch has been providing public health programs to the public in this location since 1999

The Region has been providing public health programs to the public in this location since 1999. This facility contains a dental clinic, baby clinic and sexual health clinic. Management staff have requested to remain at this location in order to provide the time for Community and Health Services to plan for its future space requirements in Markham. This is a strategic location as it is located in a highly visible area for the public. It also contains adequate public washrooms, sufficient parking for staff and clients, and is on a public transportation route.

4. ANALYSIS AND OPTIONS

A lease extension is required to provide time for the Community and Health Services Department to plan for its future space requirements

In order to provide Community and Health Services time and flexibility to determine and coordinate their future space needs for public health programs at 4261 Highway 7 East and its Early Intervention Services located at 144 Main Street, Property Services staff have negotiated agreements with each of the prospective landlords to provide Community and Health Services the flexibility it requires to determine and coordinate their future space needs.

The Region entered into a lease extension agreement for 144 Main Street in 2008 for a five-year term, with an exclusive termination right to be exercised by the Region during the third year of the lease, without penalty, upon six-month’s notice. Regional Council approved this lease extension in 2008.

The Region has the right to terminate the lease in the third year of the term without penalty

Property Services staff have reached a tentative agreement with the landlord for a five-year lease term. Negotiations with the landlord are very favourable to the Region as the landlord has agreed to renew the lease at the current rental rate for the entire lease term, and to provide the Region with an exclusive termination right, without penalty, to be exercised by the Region during the third year of the lease term, with one years’ written notice. This termination right will provide Community and Health Services the required time to plan its future space needs.

The landlord has also agreed to improve its current maintenance program of the rooftop units serving the Public Health office. Also, in lieu of excessive snow issues, pest control issues and plumbing deficiency issues at this location, the landlord has agreed to install electric snow melting bars on the mansard roof above the north facing entrance this winter (to avoid excessive snow from falling on staff and clients); to continue its extermination and pest control program, to arrange for the under floor sanitary lines be washed annually; and to ensure the restaurant tenants clean their grease traps appropriately.

The Strategic Accommodation Plan will be updated in the southern tier of the Region over the next year

Property Services Branch will be undertaking an update of the Strategic Accommodation plan over the next year, which will study the existing and required Regional Services and accommodation in the southern tier of the Region, making recommendations to Council to potentially consolidate some of the leased space to owned facilities. This exercise will guide our future space needs over the next ten years or so.

5. FINANCIAL IMPLICATIONS

The following chart outlines the cost for renewing the existing lease:

Table 1
Lease Cost Analysis

Base Rent	Additional Rent	Annual Rent
$183,267.54	$97,951.92	$281,219.46

The landlord has not increased the Base Rent for the entire term.

No leaseholds will be required to remain at this location.

Additional rent includes the cost for maintenance, landlord's insurance, property tax, rental of the pylon sign, and summer and winter ground maintenance. The Region pays for all utilities directly to the providers.

The Regional Treasurer has conducted his due diligence with respect to this lease in accordance with his obligation under the Region's policy relating to financing leases contained in the recently amended Capital Financing and Debt Policy, approved by Regional Council on September 18, 2008 through the adoption of Clause No. 8 of Report No. 7 of the Finance and Administration Committee. The Policy requires that, prior to entering into material financing leases, the Commissioner of Finance must assess the costs and financial and other risks associated with the proposed (see Attachment 1).

All costs associated with this lease extension agreement have been included in the proposed 2010 Community and Health Services Budget.

6. LOCAL MUNICIPAL IMPACT

A lease extension will allow for the continued presence of Public Health programs in Markham at this location, until such time as the Department's space needs are determined.

7. CONCLUSION

A lease extension is required to allow the Region to continue providing Public Health programs in Markham, and it is recommended that the Region enter into this lease extension as outlined in this report.

For more information on this report, please contact Paul Roberts, Manager, Realty Services, Property Services Branch, at Ext. 1424.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause was included in the agenda for the November 5, 2009 Committee meeting.)

Attachment 1

Analysis of Material Operating Lease
Lease Extension
4261 Highway 7 East
Town of Markham

The Regional Treasurer is required in accordance with Provincial Regulation 653/05 to make a recommendation to Regional Council regarding any material financial leases prior to its approval by Council. By definition a financing lease is any lease which has payments that extend or may extend beyond the term of the current Council.

Material financial leases have been defined by Council to include those financial leases having annual lease payments exceeding $250,000 or having a net present value in excess of $2.0 million.

In order to determine if a material financing lease should be recommended to Council by the Treasurer, there is specific analysis which must be performed. Each of these is discussed below in the context of this specific lease.

1. *A comparison between the fixed and estimated costs and other risks associated with the Lease Agreement and those associated with other methods of financing.*

The Region has been providing health services to the public from this location for the past ten years. The location also contains a dental clinic, baby clinic, and a sexual health clinic.

The base lease rate for the property is $13.07 per square foot., for the entire five year term of the lease. Additional rent costs, including property tax, landlord insurance and ground maintenance are estimated to be approximately $6.99 per square foot. For the two nearest commercial rental nodes to the property, Markham North/Richmond Hill and Steeles/Woodbine, C.B. Ellis reports average base rent rates of $15.41 and $13.29 sq foot respectively. The property under consideration is being rented at rates at or below the market.

Leasing another property could result in leasehold improvement costs of between $40-$60 square feet ($560,000 - $840,000) add another $8.00 - $11.98 cost per square foot each year to the leasehold cost (without reference to any financing costs the landlord may attribute to the leasehold cost payback.

As discussed in a Council report dated June 19, 2008, this lease is being renewed as part of a gap strategy while the Community Health and Services department better determine future space requirements in Markham. This lease has a renewal term of five years, with a no penalty option to terminate the lease in the third year, with one year's written notice. This time period will enable the department to better consider whether it should continue to lease or pursue alternate procurement arrangements in the marketplace. It is recommended that at the end of the first year of the lease that the Property Services Branch, and the Community and Health Services reexamine their decision to continue leasing, and report back to Council as to whether an alternate method of space procurement should be pursued in regard to this space during the third year.

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

The lease does not contain any lease payment amounts based on underlying benchmark debt instruments. The lease payment is comprised of two portions. The Annual Base Rent for years 1-5 is $ 13.07 which will remain constant during the term of the lease.

3. *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 agreement termination provision , equipment loss, equipment replacement options, and guarantees and indemnities*

This lease was entered into in 1999, and reviewed in 2004. Legal Services confirms there are no substantive changes to the term of the lease. In 2004, the Treasurer confirmed there were no material contingent payment liabilities under the terms of the lease.

Based on the above analysis the Regional Treasurer recommends the signing of this lease renewal subject to the lease renewal agreement being reviewed by the Regional Solicitor and the Regional Treasurer prior to signing to ensure that the lease contains no material termination provisions, guarantees or indemnities.