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COURT SERVICES TANNERY LEASE

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, May 26, 2004, from the Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council authorize a three-year lease extension agreement for 15,029 sq. ft. for the existing Court Services office located on the 2nd floor at The Tannery Mall 465 Davis Drive in the Town of Newmarket.
2. The Regional Chair and the Regional Clerk be authorized to execute the lease on behalf of The Regional Municipality of York, subject to review by Legal Services, Corporate Services Department.
3. Staff be authorized to take all steps necessary to affect this agreement.

2. PURPOSE

The purpose of this report is to obtain authorization from Regional Council to renew the existing lease agreement for an additional three-year term to continue delivery of Court Services in the northern part of the Region.

3. BACKGROUND

The current lease for the delivery of Court Services was entered into by the Region in July 1999 for a five-year term that expired on July 12, 2004 and is currently on overhold. The Region is leasing 15,029 sq. ft. at \$17.00 per sq. ft. gross for a total obligation of \$255,493 annually.

The existing Court space at the Tannery is not ideal. Problems related to both space configuration and building deficiencies have resulted in continuing staff, judicial, and client complaints, as well as operational inefficiencies.

In May 2003 staff of the Corporate Services Department presented three options to address accommodation requirements for delivery of Court services in the northern part of the Region. These options were presented as part of a more detailed report presented to the Inter-Municipal Joint Board of Management by the Director of Court Services.

While recognizing problems at the Tannery location, at its meeting of June 2, 2003, as adopted under Motion 49, the Inter-Municipal Joint Board of Management authorized the following:

“that Property Services Staff be asked to start negotiations with the landlord of the Tannery to extend the lease at the Tannery Court, in compliance with all Regional Requirements”

The reasons behind this decision were threefold:

1. The need for judicial approval for any new court location (and the lengthy timeframe which this involves).
2. The increased cost of providing specialized accommodation requirements for new Court facilities (special floor plans to accommodate police security requirements and Ministry specifications for courtrooms, judicial entrances, private corridors, private washrooms, reserved parking, availability of transit, etc.).
3. The extra complexity and cost which arises out of Court relocation. Court business must be pre-scheduled many months in advance (advance notice and very detailed pre-planning is required to avoid risks associated with loss of legal jurisdiction and/or fine revenue, significant re-printing costs for specialized stationery, relocation of copious paper records and court exhibits, etc.).

4. ANALYSIS AND OPTIONS

Prior to commencement of negotiations with the landlord at the existing location, Property Services staff pursued other options for the delivery of Court Services in the northern portion of the Region.

4.1 Accommodation Options

Option 1 – Continue Court Delivery at the existing Tannery location

The landlord is willing to renegotiate the lease for a further three-year term. This option causes the least disruption of the delivery of Court Services and is the least costly option. A small amount of leasehold improvements are required to increase public waiting areas.

Option 2 – Lease alternate space for the delivery of Court Services in the Newmarket/Aurora area.

Property Services staff conducted a survey of existing commercial space availability in June 2004. Currently commercial space available for lease in the Newmarket/Aurora area that would be suitable to deliver Court Services is extremely limited. The market survey identified only two sites as possible alternatives. After further analysis both of these sites

were determined to be unsuitable both from rent obligations and a leasehold improvement perspective. Rent obligations for the two sites ranged from \$22.50 to \$30.00 per sq. ft. Leasehold improvements at both locations would also be extensive as both of these sites currently operate as “**big box**” retail establishments. Even if a suitable location was available, the renovation and move would likely take up to one year.

Option 3 – Build to suit – Standalone Court Services Facility

Current prices for commercial serviced land in the Newmarket/Aurora area range from \$400,000 per acre to \$750,000 per acre depending upon location. Based on a three acre site this would have a fixed price of \$1.2 to \$2.25 million. The Region, however, does own some developable land adjacent to the Regional Administrative Centre.

On a 20,000 sq. ft. facility with base construction costs at \$220 per sq. ft., contingency and architect fees would cost \$5.7 million to deliver. These estimates are based upon recent Provincial Government Courts projects.

Option 4 – New Courts Facility within a consolidated Regional building in Newmarket

The Property Services Branch is in the process of completing a Strategic Accommodation Plan with respect to accommodation needs for the delivery of Regional services over a ten-year timeframe. This study will identify current and future requirements in the Newmarket area as the most important issue the Region is currently facing in terms of service delivery. In addition to Court Services, the Region also leases space for the delivery of Community Services & Housing, Health Services and IT programs at the Tannery. The Region also owns two medium sized sites in Newmarket at 22 Prospect Street and 62 Bayview Parkway. The state of repair at the owned sites (primarily due to the age of the facilities) and ongoing issues at the Tannery are not conducive to the delivery of Regional services in a cost-effective and professional manner that the Region wishes to portray to the public.

Options for service delivery in Newmarket are being currently evaluated and will be presented at a future time. Consolidation of services will afford the Region significant economies of scale in construction and land acquisition costs (if required) over those identified in Option 3.

Option 5 – Joint Venture with the Province of Ontario

The Provincial Courthouse located at 50 Eagle Street West in Newmarket is looking to expand the number of existing courtrooms. This provides a potential joint venture opportunity. Regional staff have been approached by staff of the Ontario Realty Corporation to explore the possibility of sharing space (for either Courtrooms or with the Land Registry Office) if the Region were to build a Court facility on the Regionally-owned land between the Administrative Centre and the Provincial Courthouse.

These discussions are at a very preliminary stage, however are worth pursuing as a possible cost-effective longer term solution to the provision of Court Services in the Newmarket area.

4.2 Recommendation

While options 3, 4, and 5 offer potential long term solutions to the delivery of Courts Services, key strategic decisions have yet to be made on the future of Regional Court Services. Option 1 is the most prudent and cost effective solution. This will provide continuity of Court Services at the location known to the public in the northern part of the Region, and will allow time for the decision-making process on the long-term delivery of Court Services within the Region.

5.0 Relationship to Vision 2026

This proposal contributes to two key goals of the Court Services Branch relative to Vision 2026:

Responding to the needs of our residents by enabling improved access to services, informing people of available services and working with a broad range of stakeholders that support the administration of justice.

Managed and Balanced growth by expanding areas of services and options to the public combined with the appropriate level of support with which to deliver the service.

6. FINANCIAL IMPLICATIONS

Property Services staff have entered into negotiations with the current landlord and have reached an agreement, whereby base rent will remain at \$17.00 per sq. ft. and additional rent capped at \$1.50 per sq. ft. be applied to utility payments. This represents an increase of 8.8% over the current lease arrangement or 2.9% annually. Additional rent will be based on actual utility consumption which will be reconciled with the landlord on an annual basis, which may reduce our overall obligation throughout the term of the lease.

Lease costs are outlined in Table 1 below.

Table 1
Lease Cost Analysis

Year	Annual Cost
1	278,036
2	278,036
3	<u>278,036</u>
Total	\$834,108

Annual costs noted in the table above include, gross rent and utility cost obligations. The Court Services Branch can accommodate the 2004 costs within its existing budget and annual obligations for 2005 and 2006 will be included in the Branch's budget estimates.

Public waiting areas adjacent to the two (2) courtrooms located at this site are inadequate. Leasehold improvements to address traffic flow and seating for court appearances required to address this situation are minimal and estimates at \$15,000 to \$25,000 can be accommodated within the Property Services Branch's 2004 Capital budget.

Ontario Regulation 266/02 and the Region's Capital Financing and Debt Policy require a statement by the Commissioner of Finance assessing the costs and risks associated with any financial leases where annual lease payments exceed \$250,000. Appendix 1 attached is a signed report of the Commissioner of Finance which summarizes staff's assessment of this financial lease and addresses all necessary compliance issues.

7. LOCAL MUNICIPAL IMPACT

The extension of this lease will ensure the continued provision of Court Services in the Newmarket area.

8. CONCLUSION

Entering into a three-year lease arrangement at the existing location will provide the most cost effective solution pending Council direction on overall Regional service delivery options in the Newmarket area.

The Senior Management Group has reviewed this report.

(A copy of the attachment referred to in this Clause has been forwarded to each Member of Council with the September 9, 2004, Finance and Administration Committee agenda and a copy is on file in the Regional Clerk's office.)