

1500 Don Mills Road – Lease Amending and Extension Agreement and Designation as a Municipal Capital Facility

Date:	March 16, 2009
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 34 – Don Valley East
Reference Number:	P:\2009\Internal Services\F&re\Gm09030F&re – (AFS 9675)

SUMMARY

The purpose of this report is to obtain authority to enter into a Lease Amending and Extension Agreement with El-Ad (1500 Don Mills) Limited, for the lease of approximately 34,899 square feet of rentable area located on the fourth (4th) and sixth (6th) floors of the building municipally known as 1500 Don Mills Road, and to have the leased premises designated as a Municipal Capital Facility.

RECOMMENDATIONS

The Chief Corporate Officer recommends that Council:

1. Authorize a Lease Extension and Amending Agreement with El-Ad (1500 Don Mills) Limited (the “Landlord”) for the lease of approximately 34,899 square feet of rentable area on the fourth (4th) and sixth (6th) floors of the building (the “Building”) known municipally as 1500 Don Mills Road (the “Leased Premises”) substantially on the terms and conditions as set out in Appendix “A” attached hereto and on such other terms and conditions as approved by the Chief Corporate Officer, or his or her designate, and in a form acceptable to the City Solicitor.

2. Authorize the lease of up to approximately 2,500 square feet of additional space in the Building, provided such space can be made available by the Landlord, substantially on the terms and conditions as set out in Appendix “A” attached hereto and on such other terms and conditions as approved by the Chief Corporate Officer, or his delegate, and in a form acceptable to the City Solicitor.
3. Authorize the Chief Corporate Officer to administer and manage the Lease Agreement 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.
4. Pass a by-law pursuant to section 252 of the City of Toronto Act, 2006 providing authority to:
 - (a) enter into a municipal capital facility agreement with El-Ad (1500 Don Mills) Limited in respect of the Leased Premises; and
 - (b) exempt the Leased Premises from taxation for municipal and school purposes, which tax exemption is to be effective from the latest of (i) the date the municipal capital facility agreement is signed and (ii) the date the tax exemption by-law is enacted.
5. Direct the City Clerk to give written notice of the by-law to the Minister of Education, the Municipal Property Assessment Corporation, the Toronto District School Board, the Toronto Catholic District School Board, the Conseil Scolaire de District du Centre-Sud-Ouest and the Conseil Scolaire de District du Catholique Centre-Sud.
6. Authorize the introduction of the necessary bills to give effect thereto.

Financial Impact

The proposed agreement provides for a base rent of \$10.00 per square foot of rentable area (34,899 square feet), for a total of \$348,990 per year for the five (5) year term, commencing July 1st, 2009. Throughout the term, the City will also be responsible for payment of common area and hydro costs, which are collectively estimated at a rate of \$9.53 per square foot of rentable area for 2009. Funding for 2009 is included in the 2009 Recommended Operating Budget for Parking Tag Enforcement & Operations. Funding requirements for 2010-2014 will be included in the respective year's operating budget submission for this Program.

The Landlord will continue to provide one hundred and sixteen (116) segregated parking spaces and a bicycle storage cage free of charge. The City will, however, pay a monthly rental rate of \$78.70 per space for six (6) reserved underground parking stalls and \$75.00 per space for twenty (20) unreserved surface parking stalls, subject to annual adjustments, for an estimated combined sum of \$23,666 per annum. The resulting annual rents are outlined in the following chart:

Lease Term	Annual Net Rent	Additional Rent (Estimate)	Parking	Total Annual Rent	Total for the Term
Years 1-5	\$348,990	\$332,587	\$23,666	\$705,243	\$3,526,215

The annual property taxes on the portion of the premises to be at 1500 Don Mills Rd are estimated to be approximately \$162,965.56 in total, comprised of a municipal portion of \$98,128.98 and a provincial education portion of \$64,836.58, based on 2008 Current Value Assessment (CVA) and 2008 tax rates, including all capping adjustments.

Exemption of the leased space will result in a reduction in municipal tax revenue of approximately \$98,128.98 per year (i.e., the municipal portion of taxes that will no longer be collected). Overall, the net savings to the City will be approximately \$64,836.58 per year, representing the education portion of taxes that will no longer be payable to the Province once the exemption takes effect.

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

DECISION HISTORY

Metropolitan Council, at its meeting on November 24 and 25, 1993, approved Clause No. 10 of Report No. 43 of the Management Committee, authorizing a lease agreement with Marathon Realty Company Limited for 36,532 square feet of rentable area in the Building. The lease commenced on January 1, 1994 and expired on June 30, 2004.

On January 4th, 2000, the City Auditor submitted a review of the Parking Enforcement Unit's operations, which brought forward a series of recommendations. The review can be found in the following report to the Budget Advisory Committee:

<http://www.toronto.ca/legdocs/2000/agendas/committees/bud/bud000221/it002.htm>

The lease was then amended and extended (Delegated Approval Form No. 2004-087) for a further five (5) year term, commencing on July 1, 2004 and expiring on June 30, 2009. That amendment and extension agreement reduced the lease premises from 36,532 square feet to 31,994 square feet, due to the relocation of the City of Toronto Parking Tag First Appearance Facility, which was located on the ground floor of the building and subsequently moved to a City-owned facility.

ISSUE BACKGROUND

Toronto Police Service's ("TPS") Parking Enforcement Unit currently occupies approximately 34,899 square feet of rentable area at 1500 Don Mills Road, consisting of 10,407 square feet on the fourth floor (Suite 401) and 24,492 square feet on the sixth floor (Suite 600). The size of the leased premises is being revised from 31,994 square feet to 34,899 square feet in the Lease Extension and Amending Agreement due to the application of BOMA standards by the Landlord as provided for in the existing lease and provided that such revision is certified by the Landlord's architect. The leased space has been used by the TPS Parking Enforcement Unit since 1994 and currently consists of office space, storage space, change room and exercise facilities. TPS has requested that Real Estate staff negotiate a five (5) year lease extension with the Landlord. Real Estate staff have completed negotiations for an extended five (5) year term commencing July 1, 2009.

TPS also requested that Real Estate staff assist in identifying suitable relocation options, including an evaluation of City-owned facilities and private purchase options. Real Estate staff were unsuccessful in locating a suitable alternative for the immediate future. An analysis of lease alternatives in the vicinity also showed a negative financial impact in relocating the operations to a comparable leased facility in the area.

During the extended term, the Landlord will inspect and repair the HVAC system, as necessary, in order to bring the HVAC system to a condition of good repair consistent with the standards of a first class commercial building.

The Landlord will also assist in trying to find additional space in the Building for the relocation of the current Training/Community room. The space currently used for this purpose (within Suite 401) has a rentable area of approximately 1,114 square feet and is too small to accommodate the increased demand for training programs. Consequently, TPS is seeking an additional 2,500 square feet in the building to expand the size of the Training/Community room. If the required space is found within the term, it will be leased on similar terms and conditions as the proposed Lease Extension and Amending Agreement.

All other terms and conditions of the lease remain the same.

COMMENTS

In addition to the premises at 1500 Don Mills, Toronto Police Service's Parking Enforcement Unit also operates in approximately 11,027 square feet of leased space at 970 Lawrence Ave West. Further analysis is required to examine the operational and cost efficiencies of consolidating both Parking Enforcement Unit locations. Real Estate staff, in consultation with TPS staff, will undertake a review and report back to City Council on a long-term location plan, including a study of space requirements and the costs and benefits of operating out of one location. The study will require an evaluation of various purchase and lease alternatives, including an examination of City-owned

locations, in the context of improving operational productivity and reducing long-term occupancy costs.

The Toronto Police Services Board, at its meeting of April 16, 2009, will be considering recommendations 1 and 2 of this report.

Facilities and Real Estate staff consider the terms and conditions of the proposed Lease Extension and Amending Agreement to be fair and reasonable, and at market rates.

CONTACT

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SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix "A" – Major Terms and Conditions
Appendix "B" – Location Map