



STAFF REPORT ACTION REQUIRED

Below-Market Rent Lease Agreements at 157 King Street East, 26 Berkeley Street and 165 Front Street East

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| Date: | July 27, 2010 |
| To: | Government Management Committee |
| From: | Chief Corporate Officer |
| Wards: | Ward 28 – Toronto Centre-Rosedale |
| Reference Number: | P:\2010\Internal Services\RE\Gm10067re (AFS #12523) |

SUMMARY

The purpose of this report is to obtain City Council authority to enter into Below-Market Rent (BMR) lease agreements with Opera Atelier, the Canadian Stage Company, and Lorraine Kimsa Theatre for Young People for a term longer than the standard BMR lease term of five years. All three organizations currently occupy City-owned spaces and meet all eligibility criteria for a BMR lease.

The three companies are established, professional arts organizations with a long history of managing their facilities and are operating clients of the Toronto Arts Council. In order to meet federal cultural infrastructure funding program criteria, all 3 organizations require a minimum 10-year lease agreement in order to apply for grants.

Based on past City policies and practices, City staff recommend the execution of BMR leases with a term that extends beyond the BMR standard 5 years in order to facilitate the organizations' ability to raise funds for capital improvements for their respective facilities. There will be no capital or operating costs to the City arising from these leases.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council authorize a new Below-Market Rent (BMR) lease agreement with the Atelier Theatre Society (o/a Opera Atelier) for a five (5) year term with a five (5) year extension option, based on the terms and conditions set out in the attached Appendix "A", and on such

other terms and conditions deemed appropriate by the Chief Corporate Officer, and in a form acceptable to the City Solicitor.

2. City Council authorize a new Below-Market Rent (BMR) lease agreement with The Canadian Stage Corporation (o/a The Canadian Stage Company) for a ten (10) year term with a ten (10) year extension option, based on the terms and conditions set out in the attached Appendix “B”, and on such other terms and conditions deemed appropriate by the Chief Corporate Officer, and in a form acceptable to the City Solicitor.
3. City Council authorize a new Below-Market Rent (BMR) lease agreement with Young People’s Theatre (o/a Lorraine Kimsa Theatre for Young People) for a ten (10) year term with a ten (10) year extension option, based on the terms and conditions set out in the attached Appendix “C”, and on such other terms and conditions deemed appropriate by the Chief Corporate Officer, and in a form acceptable to the City Solicitor.
4. City Council authorize the City Solicitor to complete the lease, deliver any notices, and amend the commencement and other dates to such earlier or later date(s), on such terms and conditions, as she may, from time to time, determine.
5. City Council authorize the Chief Corporate Officer to administer and manage the Lease Agreements, 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.

Financial Impact

The proposed BMR lease agreement with Opera Atelier assumes lease of their administrative headquarters, studio and rehearsal spaces within a portion of the City-owned facility at 157 King Street East – Fourth Floor (St. Lawrence Hall) for an annual net charge of \$15,840. The Tenant shall be responsible for all applicable costs and expenses related to the Premises.

In accordance with the City’s Below Market Rent Policy, the opportunity costs of entering into the Below Market Rent agreement must be determined and reported to City Council. Research indicates that the present value of the total opportunity cost of the lease over the 5-year term is approximately \$119,149. If the lease is extended for an additional 5-year term, the present value of the opportunity cost for the 5-year lease extension term is approximately \$101,893 for a total present value opportunity cost of \$221,042 over the 10 year period.

The proposed BMR lease agreement with The Canadian Stage Company assumes a lease of their administrative headquarters and performance spaces at 26 Berkeley Street for a nominal net rent consideration. All operating costs related to the space will be paid by the tenant resulting in no cost to the City of Toronto.

Research indicates that the total present value opportunity cost of the lease over the 10-year term is approximately \$1,466,882. If the lease is extended for an additional 10-year term, the present value opportunity cost for the 10-year lease extension term is approximately \$1,072,763 for a

total present value opportunity cost of \$2,539,645 over the 20 year period. This figure does not take into account the fact that The Canadian Stage Company will be responsible for all capital costs related to their leased building. Normally these costs are the responsibility of the Landlord (in this circumstance, the City of Toronto).

The proposed BMR lease agreement with Lorraine Kimsa Theatre for Young People (LKTYP) assumes a lease of their administrative headquarters and performance spaces at 165 Front Street East for a nominal net rent consideration. All operating costs related to the space will be paid by the tenant resulting in no cost to the City of Toronto.

Research indicates that the total present value opportunity cost of the lease over the 10-year term is approximately \$1,805,393. If the lease is extended for an additional 10-year term, the present value opportunity cost for the 10-year lease extension term is approximately \$1,320,323 for a total opportunity cost of \$3,125,716 over the 20 year period. This figure does not take into account the fact that LKTYP will be responsible for all capital costs related to their leased building. Normally these costs are the responsibility of the Landlord (in this circumstance, the City of Toronto).

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

DECISION HISTORY

At its meeting on October 1, 2, and 3, 2002, Council adopted “A Policy for City-Owned Space Provided at Below-Market Rent” as the first step in rationalizing how City-owned space is provided to community and cultural organizations.

(<http://www.toronto.ca/legdocs/2002/agendas/council/cc021001/pof13rpt/cl001.pdf>).

Through subsequent reports, Council has refined the BMR policy framework and has authorized the extension of existing BMR lease agreements. The most recent report adopted by City Council was on November 19-20, 2007 titled “Providing City-Owned Space to Community Organizations at Below-Market Rent”.

(<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-11-19-cc14-dd.pdf>).

Within the latter report, Council directed City Staff to enter into BMR lease agreements with Opera Atelier, Canadian Stage Company and LKTYP respectively for a 5-year lease term, contingent on meeting the BMR eligibility criteria.

ISSUE BACKGROUND

The federal cultural infrastructure program (Canada Cultural Spaces Fund) requires all applicants applying for funding related to construction, expansion or renovation projects to provide documentation of ownership or a long-term lease (minimum 10 years). For the purposes of funding eligibility, Opera Atelier, The Canadian Stage Company and LKTYP require a lease agreement with the City for a minimum 10-year lease term to meet the requirements of the federal program. The Canadian Stage Company and LKTYP manage and operate the entirety of

their respective City-owned facilities. These 2 organizations have previously accessed this funding in the past.

Incorporated in 1983, Atelier Theatre Society (o/a Opera Atelier) is a charitable, not-for-profit organization with a mission to produce opera, ballet and drama from the 17th and 18th centuries. These productions draw upon the aesthetics and ideals of the period featuring soloists of international acclaim, period ballet and period instruments, but the productions are new.

Opera Atelier has occupied 3,168 square feet of space on the fourth floor in St. Lawrence Hall since 1999. The company's administrative headquarters and rehearsal studios are located at this location. The organization does not perform theatre production within the building. Council authority is required to include a five year extension option to their standard BMR lease term of 5 years.

Incorporated in 1987, The Canadian Stage Corporation (o/a Canadian Stage Company) is a charitable, not-for-profit organization whose purpose is to create, produce and present the best in Canadian and international contemporary theatre; and promote and develop Canadian talent both locally and internationally.

The Canadian Stage Company previously held a 20-year lease agreement with the City that expired December 31, 2007. They have continued to operate and maintain the facility at 26 Berkeley Street while awaiting the City's implementation of the BMR policy. Council authority is required to extend the lease agreement to a 10-year term with a 10-year extension option.

Incorporated in 1966, LKTYP is a charitable, not-for-profit organization whose purpose is to create, produce and present the best Canadian theatre for children and their families; and promote and develop theatre arts for children and youth.

LKTYP also previously held a 30-year (less 7 months and 1 day) lease agreement with the City that expired April 29, 2006. They have continued to operate and maintain their purpose-built facility at 165 Front Street East while awaiting the City's implementation of the BMR policy. Council authority is required to extend the lease to a 10 year term with a 10 year extension option.

COMMENTS

The City has a long history of supporting the community-based service sector and cultural organizations through the provision of space for administrative and program delivery purposes.

Opera Atelier, the Canadian Stage Company, and LKTYP all qualify for below market rent from the City as they meet the eligibility criteria (i.e. the organizations are incorporated as a not-for-profit with charitable status, their activities support City objectives and serve City residents, and the organizations' mandates are not the responsibility of senior levels of government). All three organizations are recipients of operating funding from the Toronto Arts

Council, and all three organizations currently occupy City-owned space and have been located at their current locations for over 10 years.

A 5-year lease term with a 5-year extension option will offer Opera Atelier predictable operating expenses and allow the organization to continue serving the citizens of Toronto with their programming.

The buildings that are occupied by Canadian Stage Company and LKTYP are professional, public theatres. It would be difficult to replace these tenants at each respective location as each site has been purpose-renovated to serve as professional theatres that require significant budgets to operate.

CONTACT

Joe Casali
Director, Real Estate Services
Tel: (416) 392-7202
Fax: (416) 392-1880
jcasali@toronto.ca

Rita Davies
Executive Director, Cultural Services
Tel: (416) 397-5323
Fax: (416) 392-5600
rdavies@toronto.ca

SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix “A” – Major Terms & Conditions (157 King Street East)
Appendix “B” – Major Terms & Conditions (26 Berkeley Street)
Appendix “C” – Major Terms & Conditions (165 Front Street East)
Appendix “D” – Location Map