



STAFF REPORT ACTION REQUIRED

Below Market Rent Lease Extension Agreement with Don Valley Art Club at 666 Eglinton Avenue West

Date:	May 24, 2016
To:	Government Management Committee
From:	Chief Corporate Officer and General Manager, Economic Development and Culture
Wards:	Ward 21 - St. Paul's
Reference Number:	P:\2016\Internal Services\RE\Gm16027re (AFS # 22930)

SUMMARY

The purpose of this report is to obtain City Council authority to extend a Below-Market Rent ("BMR") lease agreement with Don Valley Art Club for approximately 1,642 square feet of space in the City-owned building (the "Premises") located at 666 Eglinton Avenue West (the "Building").

RECOMMENDATIONS

The Chief Corporate Officer and the General Manager of Economic Development and Culture recommend that:

1. City Council grant an exemption from the Return on Investment ("ROI") requirement set out in the City's below market rent policy as the tool is under development with Social Development, Finance and Administration Division.
2. City Council authorize a lease extension agreement for the Premises (the "First Extension Agreement") with Don Valley Art Club ("DVAC") for a two (2) year term on the terms and conditions set out in the attached Appendix "A", and on any other or amended terms and conditions acceptable to the Chief Corporate Officer (the "CCO") in consultation with the General Manager, Economic Development and Culture (the "GM"), and in a form acceptable to the City Solicitor.

3. City Council authorize a further lease extension agreement for the Premises (the "Second Extension Agreement" which, together with the First Renewal Agreement, shall be referred to herein as the "Agreement") with DVAC for a three (3) year term, substantially based on the terms and conditions as set out in the First Renewal Agreement and on any other or amended terms and conditions acceptable to the CCO in consultation with the GM, and in a form acceptable to the City Solicitor, conditional upon (i) an Official Plan Amendment ("OPA") being obtained for the Premises, if required; and (ii) the Premises being declared surplus to the City's needs for the purposes of a long-term lease.
4. City Council authorize the City Solicitor to complete the First Extension Agreement and the Second Extension Agreement, deliver any notices, pay expenses and amend the commencement and other dates to such earlier or later date(s), on such terms and conditions, as they may, from time to time, determine.
5. City Council authorize the CCO to administer and manage the Agreement, including the provision of any consents, approvals, notices and notices of termination, provided that the CCO may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction.
6. City Council direct the Director, Real Estate Services to apply for a City-initiated OPA for the Building at no cost to the Below Market Rent Tenants at the Building.

Financial Impact

The Agreement will provide DVAC with approximately 1,642 square feet of community space for a nominal net rent consideration. All operating costs, maintenance fees and utilities related to the building occupancy will be paid for by DVAC.

In accordance with the City's BMR policy, the opportunity costs of entering into the Agreement must be determined and reported to City Council. Research indicates that the total opportunity cost of the First Extension Agreement over the two (2) year term is approximately \$37,730 plus HST, and the total opportunity cost of the Second Extension Agreement over the three (3) year term is approximately \$62,200. The total opportunity cost for the Agreement is \$97,930 plus HST.

DVAC is currently exempt from paying all realty taxes related to the Premises, however the Municipal Property Assessment Corporation ("MPAC") is currently assessing the Premises to determine their eligibility for tax exemption. Pending MPAC's review, DVAC will be responsible for all realty taxes related to the Premises if the Premises are deemed non-exempt.

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” (the "BMR Policy") 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 was submitted to City Council on November 19-20, 2007 titled “Providing City-Owned Space to Community Organizations at Below-Market Rent.”

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/pof7rpt/cl024.pdf>

One of the five key recommendations of Creative Capital Gains, the City's cultural action plan adopted by City Council, is "To ensure a supply of affordable, sustainable, cultural space." The extension of an existing BMR lease supports this recommendation:

http://www1.toronto.ca/city_of_toronto/economic_development_culture/cultural_services/cultural_affairs/initiatives/files/pdf/creative-capital-gains-report-august9.pdf

DVAC entered into a five year BMR lease agreement with the City to utilize approximately 1,642 square feet of City-owned space located at 666 Eglinton Avenue West in 2011.

<http://www.toronto.ca/legdocs/mmis/2011/gm/bgrd/backgroundfile-39321.pdf>

ISSUE BACKGROUND

DVAC is an eligible BMR tenant and has occupied the property at 666 Eglinton Avenue West since 2011. DVAC's existing lease with the City expires June 30, 2016. An eligibility review and performance assessment for BMR status was conducted by the Economic Development and Culture Division at the City of Toronto in April 2016. The organization was deemed eligible to continue occupying its City-owned space as a BMR tenant. Council authority is now required to renew the current lease.

While most BMR leases are for a term of 5 years, in this case, the lease may only be extended for 2 years until an OPA is obtained. Leases with terms meeting or exceeding a cumulative 21 years are considered disposals in accordance with the Toronto Municipal Code – Section 213.6. However, the Building is identified as being in the City's Green Space System and designated *Parks and Open Space* in the Official Plan. Both Green Space System policies and the *Parks and Open Space* policies prohibit the sale or disposal by way of leases of 21 years or more of publicly owned lands. An OPA is required to permit disposal the Premises, and they must be declared surplus in accordance with the City's disposition policies before the Second Extension Agreement can be entered into. In order to make long-term leases at the Building more streamlined in the future, the OPA will be undertaken for the whole Building, not just the Premises.

DVAC provides access to arts and cultural programming to seniors in a part of the City that would otherwise have few options. It is in the City's interest to work with an interdivisional team to assist DVAC in providing cultural services in this location where the demand is high, and the program offerings are limited.

COMMENTS

The City has a long history of supporting the community-based service sector and cultural organizations by way of providing of space for administrative and program delivery purposes. It should be noted that this location is outside the downtown core and is an area of the City that has far less access to cultural space and programs.

DVAC is a not-for-profit, volunteer run organization that gathers for the purpose of making visual art. Its members are primarily comprised of senior citizens that are fellow artists and art enthusiasts who meet on a year-round basis. Incorporated in 1974, the purpose of the organization is to provide a shared studio space for its members to create art, offer opportunities to learn, and to exhibit their art as a group in juried and non-juried shows. Since 2011, DVAC has been the official BMR tenant at the Building. Before then, the Premises had been occupied for a lengthy period of time by another art group, Forest Hill Art Club, necessitating the declare surplus and OPA prior to the Second Extension Agreement.

The extension of the Below Market Rent lease will allow members of DVAC to continue their programming to the City's residents, primarily senior citizens, for the foreseeable future in an area that has demonstrated a high demand for such programs.

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SIGNATURE

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ATTACHMENT

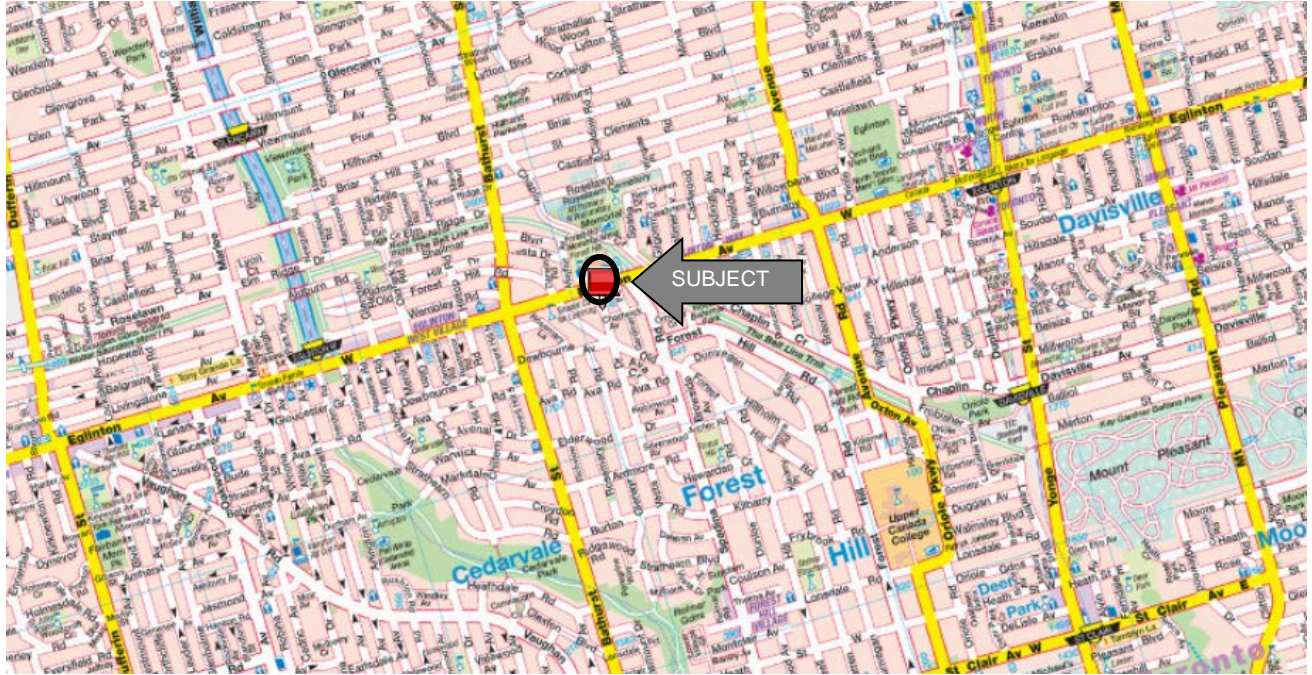
Appendix "A" – Major Terms and Conditions
Appendix "B" – Location Map

Appendix A:
Proposed Lease Terms and Conditions

Property Address:	666 Eglinton Avenue West, Toronto, Ontario.
Premises:	Approximately 1,642 Square Feet.
Tenant:	Don Valley Art Club
Lease Term:	First Extension Agreement: Two (2) years from the Commencement Date. Second Extension Agreement: Three (3) year extension conditional upon (i) an Official Plan Amendment being obtained for the Lands, if required; and (ii) the Lands being declared surplus to the City's needs for the purposes of a long-term lease.
Commencement Date:	July 1, 2016.
Maintenance Reports:	The City shall have the right to request and review the Tenant's maintenance reports and logs pertaining to building operations and repairs at any time.
Late Payment Charges:	For any late amount by the Tenant, interest on the amount outstanding from time to time shall bear simple interest at the rate of 1.25% per month (15% per year). Subject to City Council approval, the default rate of interest may be increased by the City from time to time, by notice to the Tenant.

Appendix B:

Schedule "A" - Location Map



Schedule "B" – Location Site Map



Schedule "C" – Sketch of Leased Premises - Hatched

