



STAFF REPORT ACTION REQUIRED

Sublease Agreement at 201 Chester Le Boulevard with Agincourt Community Services Associations Inc. (ACSA) for Below-Market Rent

Date	September 22, 2016
To:	Government Management Committee
From:	Chief Corporate Officer and Executive Director, Social Development, Finance and Administration
Wards:	Ward 39 – Scarborough-Agincourt
Reference Number:	P:\2016\Internal Services\RE\Gm16039re (AFS # 22195)

SUMMARY

The purpose of this report is to obtain City Council authority to extend the Below-Market Rent (“BMR”) Sublease agreement with Agincourt Community Services Associations Inc. (“ACSA”) for an additional five (5) year term for approximately 5,126.5 square feet of space located at 201 Chester Le Boulevard.

RECOMMENDATIONS

The Chief Corporate Officer and Executive Director, Social Development, Finance & Administration (SDF) recommend that:

1. City Council authorize the extension of the BMR Sublease with ACSA (the "Extension"), in accordance with the City’s Policy for City-Owned Space Provided at Below-Market Rent (the “BMR Policy”), for a five (5) year term, substantially based on the terms and conditions set out in Appendix “A”, with such revisions and on such other terms and conditions acceptable to Chief Corporate Officer, or his or her designate and in a form acceptable to the City Solicitor.
2. City Council deem the grant of the Extension at below fair market rent to be in the interests of the City.

3. City Council authorize the City Solicitor to complete the Extension and all related documentation as required, and to deliver any notices, pay expenses and amend the commencement, termination and other dates to such earlier or later date(s), on such terms and conditions, as the City Solicitor, or his or her designate, may from time to time determine.
4. The Chief Corporate Officer and the Director of Real Estate Services be severally authorized to execute such documents required to complete the Extension.
5. City Council authorize the Chief Corporate Officer or his or her designate to administer and manage the Extension, 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.
6. City Council grant an exemption from the Return on Investment (ROI) requirement, under the BMR Policy, as this tool is under development with Social Development, Finance and Administration Division.

Financial Impact

The proposed Extension relates to a sublease of approximately 5,126.5 square feet of space on the second floor at 201 Chester Le Boulevard for a nominal net rent consideration. The City is the tenant under a Head Lease with the owner of the Building, Toronto District School Board, for premises of 12,760.5 square feet on the first and second floors of the building. Under the Head Lease, the City pays rent in an initial amount of \$11.64 per square foot, increased by three percent (3%) per year, in order to cover its occupancy costs. Under the Sublease and the Extension, ACSA pays to the City all amounts which the City is required to pay under the Head Lease with respect to the subleased premises. The amount payable by ACSA to the City for the five (5) year term of the Extension is \$316,817.71 plus HST, which will fully compensate the City for the costs payable under the Head Lease with respect to the subleased premises.

In accordance with the BMR Policy, the opportunity costs of entering into the Extension must be determined and reported to City Council. Research indicates that the total opportunity cost of the Extension over the five (5) year term is approximately \$424,455.

ACSA's total operating budget for 2016 is \$5,079,316 and for the BMR space at 201 Chester Le Boulevard the operating budget allocated for programing costs is \$189,755. For the five (5) year lease term, the organization will be investing an estimated \$948,775 into the community through their programs and services, contingent on funding.

In accordance with the requirements of the BMR Policy, SDFa is developing a measure of Return on Investment (ROI) as a part of its policy on the allocation of City space for below-market rent and community space tenancies. This tool will consider the cost of investment in the BMR program made by the City and the returned value of the programming supported by the investment to the City made by BMR tenants.

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

DECISION HISTORY

At its meeting on July 12, 13 and 14, 2011, Council adopted Item No. GM5.15, a report titled "New Below-Market Rent Leases at 1379 Bloor Street West, 201 Chester Le Boulevard and 3600 Kingston Road and New Head Lease at 201 Chester Le Boulevard", to (among other things) grant a BMR Sublease to ACSA for a five (5) year term.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.GM5.15>

Through subsequent reports, Council has refined the BMR policy framework and has authorized the extension of existing BMR lease agreements. City Council adopted the report on November 19th and 20th 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>

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>

ISSUE BACKGROUND

On February 1st 2012, Toronto District School Board of Toronto (landlord) entered into a Head Lease with the City of Toronto (tenant) for a term of 20 years for premises on the first and second floor of the building at 201 Chester Le Boulevard. The gross rentable area of the leased premises is 12,760.50 square feet. The allowed uses under the Head Lease are a Child Care Centre on the first floor and a Community Agency Space on the second floor. Under the Head Lease, the City is required to pay an amount to cover occupancy costs. As of the commencement of the Head Lease, this amount was based on a rate of \$10.04 per square foot, with a yearly increase of three percent (3%). All amounts payable under the Head Lease with respect to the Community Agency Space were to be recovered from the ACSA, as subtenant of such space.

On May 1st 2012, the City entered into the BMR Sublease with ACSA for the Community Agency Space on the second floor of the building. The Sublease will expire on January 31st 2017 and ACSA is interested in an extension. It is recommended that the Extension of the BMR Sublease for a term of five (5) years be entered into by the City of Toronto and ACSA.

Since April 2012, ACSA has performed interior renovations worth approximately \$20,725.90 at the facility at no cost to the City. ACSA has improved the value of the City's managed building at its own expense in order to better serve local clients.

COMMENTS

An eligibility review by SDFA has deemed ACSA eligible under the BMR Policy. The BMR eligibility criteria include:

- incorporated not for profit or charitable status
- programs and services support City objectives
- programs and services provided primarily to residents of Toronto
- a mandate that is not the responsibility of other levels of government

ACSA has also demonstrated financial viability to maintain the allocated space and operating cost payments for the duration of the Extension.

ACSA is a non-profit, multi-service agency for children, youth, seniors, newcomers, homeless and underserved communities providing a variety of programs mainly in Wards 39, 40 and 41 for the past 50 years. Today, ACSA addresses a variety of issues including systemic poverty, hunger, housing, homelessness, unemployment, accessibility and social isolation. Just recently, ACSA was recognized by the City of Toronto for the Public Health Champion Award. This award recognized ASCA's leadership in reducing health inequalities and acting as a catalyst for positive change.

ACSA's Chester Le Community Corner at 201 Chester Le Boulevard works to deliver support programs to the Chester Le community by connecting residents with local services and acts as a community hub for people to access information, programs and services. The location offers over 40 different programs ranging from senior support to youth programming, food security and employment supports. Programs and services offered at the Chester Le community support the City's Toronto Youth Equity Strategy, Toronto Poverty Reduction Strategy and Toronto Strong Neighbourhoods Strategy 2020.

Extending ACSA's Sublease for five (5) years would allow the organization to continue to use the space to ensure that the community has access to the support and services through the Chester Le Community Corner at 201 Chester Le Boulevard.

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ATTACHMENTS

Appendix "A" – Major Terms and Conditions: 201 Chester Le Boulevard
Appendix "B" – Location Map: 201 Chester Le Boulevard

APPENDIX "A"

Major Terms and Conditions

Below-Market Rent Sublease Extension Agreement at 201 Chester Le Boulevard

Head Landlord/Owner:

Toronto District School Board

Head Tenant/Sub-Landlord:

City of Toronto

Sub-Tenant:

Agincourt Community Services Association Inc.

Premises:

Comprising of an area of 5,126.5 square feet of space on the second floor of the property municipally known as 201 Chester Le Boulevard, Toronto, Ontario (the "Subleased Premises")

Commencement Date:

The Commencement Date shall be shall be February 1, 2017

Term:

The Term of the Extension shall be five (5) years from the Commencement Date

Annual Net Rent:

The Sub-Tenant shall pay to the City of Toronto a basic rent ("Basic Rent") of \$2.00 per annum

Net Sublease:

The Sublease shall be entirely net to the City of Toronto. Any obligation not stated to be that of the City shall be deemed to be that of the Sub-Tenant.

Additional Rent:

The Sub-Tenant shall pay all amounts with respect to the Subleased Premises which the City is required to pay to the Landlord under the Head Lease (which amounts are to cover occupancy costs under the Head Lease). As of the Commencement Date of the Extension, such amount is based on the rate of \$11.64 per square foot, plus HST, with yearly increases of three percent (3%). The amount payable by ACSA to the City for the five (5) year term of the Extension is \$316,817.71 plus HST.

The Sub-Tenant shall also pay: (i) all additional amounts paid by the Sub-Landlord with respect to the operation, maintenance, repair, service, and upkeep of the Subleased Premises by the Sub-Landlord which are not included or in addition to the amounts set out in the preceding paragraph; (ii) all costs for additional services requested by the Sub-Tenant; (iii) all taxes imposed upon the property of the Sub-Tenant or the business, income or occupancy of the Sub-Tenant at the Subleased Premises; and (iv) any realty taxes if same become payable.

Late Payment Charges/NSF Cheques:

If any amount due and payable to the City remains unpaid thirty days after it is due, interest on the amount outstanding shall be paid to the City at the rate of 1.25% per month (15% per annum). Interest will be calculated monthly and including the day after the last day of the thirty day period and paid monthly until payment is received in full by the City.

The Sub-tenant shall pay to the City a charge of thirty-five dollars (the "NSF Fee") for each cheque tendered by the Sub-tenant that is not honored by the bank or other institution on which it is drawn. The NSF Fee may be increased from time to time so that it is equal to the fee charged by the City in respect of cheques tendered in payment of municipal tax and water charges that are not honored by the banks or other institutions on which they are drawn.

Use:

The Subleased Premises shall be used and shall continually be operated throughout the term for youth engagement and skills development, employment support, computer training, information and referral, settlement support, after school programming for children, resident-led initiatives such as a mothers' group or senior-led crafts and recreational programs. The Sub-Tenant shall not store or use any hazardous or environmentally sensitive materials in the Subleased Premises and the property.

Early Termination:

The Sub-Landlord shall have the right to terminate the Extension if the Sub-Tenant is, at any time during the Extension Term no longer BMR eligible or financially viable in each instance as determined by the Sub-Landlord acting reasonably, and provide that the City has not waived, or is not willing to waive the relevant BMR eligibility criteria. A termination resulting from a failure to remain BMR eligible shall not result in contractual damages for the Sub-Tenant notwithstanding any balance remaining in the Extension Term.

The Sub-Landlord shall have the right to terminate the Extension for any reason and at any time during the Extension Term upon providing the Sub-Tenant with sixty (60) days prior written notice.

Standard Agreement:

The City's solicitor shall draft the Sublease Extension document which shall contain such further revisions and other terms and conditions as may be satisfactory to the Chief Corporate Officer, all in the form acceptable to the City Solicitor.

Insurance:

The Sub-Tenant is to provide, prior to the commencement of the term of the Extension and on an annual basis, proof of insurance in accordance with the insurance requirements outlined in the Sublease.

APPENDIX "B"
Location Map – 201 Chester Le Boulevard

