

Amendment to Below-Market Rent Lease Agreement with Nia Centre for the Arts Incorporated at 524 Oakwood Avenue

Date:	October 25, 2016
To:	Government Management Committee
From:	Chief Corporate Officer and Executive Director, Social Development, Finance and Administration
Wards:	Ward 15 – Eglinton – Lawrence
Reference Number:	P:\2016\Internal Services\RE\Gm16047re (AFS # 23668)

SUMMARY

The purpose of this report is to obtain authority to amend an existing Below-Market Rent ("BMR") lease with the tenant, Nia Centre for the Arts Incorporated (Nia Centre), to add 7,069 square feet of additional space within the building located at 524 Oakwood Avenue in Ward 15 Eglinton-Lawrence.

RECOMMENDATIONS

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

1. City Council authorize a Lease Amending Agreement (the "Lease Amendment ") with Nia Centre for the Arts Incorporated ("Nia Centre") to add approximately 7,069 square feet of additional space in building known municipally as 524 Oakwood Avenue, substantially based on the terms set out in the attached Appendix "A", on such other or revised terms and conditions acceptable to the Chief Corporate Officer, and in a form acceptable to the City Solicitor.
2. City Council authorize the Chief Corporate Officer, or her designate, to administer and manage the Lease Amendment 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.

3. City Council authorize the City Solicitor to complete the Lease Amendment, 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 she may, from time to time, determine.
4. City Council grant an exemption from the Return on Investment (ROI) requirement, under the Below Market Rent Policy, as this tool is under development with Social Development, Finance and Administration Division.

Financial Impact

The current space in the building occupied by Nia Centre is approximately 7,070 square feet. The additional 7,069 square feet of space on the ground floor of the building will be included for a nominal net rent consideration. Together with the additional space, Nia Centre will be the sole occupant of the building and will be responsible for the total estimated operating costs for the entire space (14,139 square feet) at approximately \$113,400 per year. This results in no operating costs to the City of Toronto, if the tenant complies with all of the terms of the lease.

All leasehold investments to the facility currently estimated at \$3.6 million will be paid by the tenant.

In accordance with the City's Policy on City-Owned Space provided at BMR, the opportunity costs of entering into this Lease Amendment must be determined and reported to City Council. Research indicates that the present value of the opportunity cost of the proposed additional space is approximately \$609,637 for the remaining eight (8) year lease term. The present value of the opportunity cost of the entire space (14,139 square feet) is \$1,155,788 for the remaining eight (8) year lease term.

Nia Centre's total operating budget for 2016 is \$545,159. For the remaining eight (8) years out of the ten year lease term, the organization will be investing an estimated \$4.3 million operating funds into the community through their programs and services, contingent on continued funding.

The Deputy City Manager & Chief Financial Officer have 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 reviewing the BMR program was approved by City Council on November 27, 2013 titled "Update on the Policy for City-Owned Space Provided at Below-Market Rent."

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX25.7>)

At its meeting on May 7, 8, 9 and 10, 2013 Council adopted Item No.GM21.12, a report titled "Below-Market Rent Lease Agreements at 524 Oakwood Avenue" to grant a BMR lease agreement to Nia for a ten (10) year lease term.

<http://www.toronto.ca/legdocs/mmis/2013/gm/bgrd/backgroundfile-56814.pdf>).

At its meeting on May 5, 6, and 7, 2015 Council adopted Item No.GM3.17, a report titled "Below-Market Rent Lease Agreement at 524 Oakwood Avenue" to grant a BMR lease agreement to University Health Network for a ten (10) year lease term.

<http://www.toronto.ca/legdocs/mmis/2015/gm/bgrd/backgroundfile-78209.pdf>).

ISSUE BACKGROUND

Demographical data and service analysis conducted in 2012 indicated that the surrounding Oakwood-Vaughan community was under-resourced in a number of important community services. To address the need for community services SDFa, with support from the Ward Councillor, submitted a business case to the Property Management Committee (PMC) to create a community hub at 524 Oakwood Avenue, anchored by Nia Centre and Metropolitan Action Committee of Violence Against Women and Children (METRAC).

In May 2013, Council approved granting Nia Centre a 10 year BMR lease for 7,070 square feet at 524 Oakwood Avenue and on April 30, 2014 staff executed the lease agreement. However, a lease agreement with METRAC was not established. In its place, Council approved a BMR lease agreement with University Health Network (UHN) at 524 Oakwood Avenue on May 5, 2015 to allow UHN to partner with Nia Centre to provide health services to youth as well as to children and families.

As part of the lease agreement, Nia Centre committed to providing \$2.2 million in leasehold improvements to upgrade the facility. Over the past two years, Nia Centre has secured additional funding from Canadian Heritage and United Way Toronto & York Region and has now agreed to contribute \$3.6 million in leasehold improvements. These leasehold improvements are at no cost to the City and will enhance access to community space in a neighbourhood that lacks appropriate public amenities.

On June 1, 2016 UHN submitted a letter to SDFa noting their intention to release their rights to lease the space at 524 Oakwood Avenue due to funding restraints. Given the need for a full-service, multi-purpose arts and performance space in the Oakwood-Vaughan community, Nia Centre has requested to lease the UHN former space of 7,069 square feet, giving Nia Centre sole use of the building to address the needs of vulnerable youth in Oakwood-Vaughan and across the City.

Since being awarded a BMR lease in 2014, Nia Centre did not locate into the 524 Oakwood Avenue facility until July 2016 due to construction delays. Nia Centre has since covered all operating expenses associated with the facility to date. In addition, Nia Centre has been the lead tenant to initiate leasehold improvements to the City-owned facility by securing building condition assessment reports, architectural drawings, permits and funding. Nia Centre also hired a project team to manage the upgrades to the facility, including making the building accessible to meet the Accessibility for Ontarians with Disability Act requirements.

COMMENTS

A re-assessment of Nia Centre's financial viability has demonstrated that Nia Centre can manage paying all costs associated with operating the space at 524 Oakwood Avenue as a single tenant. Nia Centre also meets other BMR eligibility criteria which include:

- non-profit status
- programs and services aligned with a City division mandate
- programs and services provided primarily to residents of Toronto
- a mandate that is not the sole responsibility of other levels of government
- demonstrated financial viability to maintain allocated space and operating costs for the duration of lease.

Nia Centre incorporated as a registered not-for-profit organization in 2010, and is currently a legacy project of the Youth Challenge Fund (administered by United Way). Nia Centre focuses on the development of young people through culturally relevant arts experiences. They provide programs and services to engage young people artistically, emotionally, spiritually, and intellectually to support the development of healthy identities and positive life choices. In addition to delivering culturally specific programming, Nia Centre showcases and promotes arts from an African Diasporic perspective in a way that engages inter-generational artists and the general population.

The lease agreement with Nia Centre expires on April 30, 2024. The organization has requested that the lease be amended so they become the sole tenant for the remaining BMR lease term of eight (8) years and in recognition of the substantial leasehold improvements they will be making to 524 Oakwood Avenue. Programs and services offered at this BMR location are in alignment with the City's Toronto Strong Neighbourhoods Strategy 2020 and Toronto Youth Equity Strategy.

It is recommended that Council approve the amendment of the BMR lease to allow Nia Centre to be the sole tenant at 524 Oakwood Avenue. This will enable the organization to support the Oakwood-Vaughan community with a full-service multi-purpose arts and performance space that will also be made available to meet broader community needs.

The leasehold improvements to be completed by Nia are in the best interest of the City.

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SIGNATURE

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ATTACHMENTS

Appendix “A” – Major Terms and Conditions for Nia
Appendix “B” – Location Map for 524 Oakwood Avenue

Appendix A:

Lease Amendment - Terms and Conditions

Tenant:	Nia Centre for the Arts Incorporated
Property Address:	524 Oakwood Avenue, Toronto
Existing Premises:	approximately 7,070 square feet
Additional Premises:	approximately 7,069 square feet
Total Premises:	approximately 14,139 square feet
Term:	The existing Lease is for a term of ten (10) years, commencing April 30, 2014. The balance of the Term is approximately eight (8) years.
Use:	The Tenant shall only use the Premises in accordance with the Lease and its Service Agreement with the City, and shall continue to comply with the Below-Market Rent Policy throughout the Term.
Basic Rent:	\$2.00 per year for Basic Rent.
Additional Rent:	The Tenant is responsible for all operating costs, including maintenance and realty taxes in an amount to be determined by the Chief Corporate Officer, in consultation with the Executive Director of Social Development, Finance & Administration, and is also responsible for any other applicable costs related to the Premises.
Eligibility:	Throughout the Term, the Tenant must maintain its eligibility in accordance with the Below-Market Rent Policy and retain its non-profit status.
Leasehold Improvements:	On or before December 31, 2018 that Tenant shall complete upgrades to the Premises, in accordance with plans and specifications to be approved in writing by the Chief Corporate Officer, in an amount of not less than \$3.6 Million.
Transfer or Assignment:	The Tenant shall not transfer, assign, sublease, mortgage or encumber the Premises without the City's consent, which may be unreasonably withheld.

Appendix "B"
Location Map – 524 Oakwood Avenue

