



## REPORT FOR ACTION

### Community Space Tenancy Policy

**Date:** May 26, 2017

**To:** Executive Committee

**From:** Chief Corporate Officer

and Executive Director, Social Development, Finance and Administration

**Wards:** All

#### SUMMARY

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The City's Policy for City-Owned Space Provided at Below-Market Rent (BMR) provides Council and staff with a process for leasing City space at below market rent to non-profit organizations that deliver community and cultural services to residents and further the City's strategic objectives.

Staff have conducted a review of the Policy and this report proposes to replace the BMR policy with a new Community Space Tenancy (CST) policy. The CST policy responds to the needs of the City and the non-profit sector by creating three types of tenancies: Community Partner, Incubator and Community Hub. The CST policy ensures that the City continues to meet its original policy objectives to provide a consistent, fair, accountable and transparent approach to leasing City space to community-based service sector and cultural organizations at less than market rates, and to foster partnerships that support these organizations to meet resident needs.

If adopted, the CST policy would take effect for Community Partners and Community Hub tenancies on January 1, 2018. Implementation of the Incubator Tenancies will occur should Council approve the required resources through the 2018 budget process.

#### RECOMMENDATIONS

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**The Chief Corporate Officer and the Executive Director, Social Development, Finance and Administration recommend that:**

1. City Council adopt the Community Space Tenancy Policy as set out in Appendix A, to come into effect on January 1, 2018.

2. City Council authorize the Chief Corporate Officer, in consultation with the Executive Director, Social Development, Finance and Administration (SDFA) and/or the Division Head responsible for the tenants' programs, to administer and manage all lease agreements approved by City Council under the CST Policy, 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 Chief Corporate Officer, in consultation with the Executive Director of SDFA and/or the Division Head responsible for the tenants' programs, to approve new leases with tenants occupying space pursuant to the CST Policy when a prior lease entered into pursuant to the CST Policy has expired, provided that such tenant remains in good standing, continues to meet all criteria of the CST Policy, and the new lease is on substantially the same terms and conditions as the lease for such tenant previously approved by City Council.
4. City Council authorize the Chief Corporate Officer, in consultation with the Executive Director of SDFA, and/or the Division Head responsible for the tenants' programs, to approve lease arrangements for vacant space located within a City facility occupied by three or more tenants operating with intentional program and service integration pursuant to the CST Policy, where such vacancy arises from the termination of a prior tenancy by the City, the replacement tenant meets all criteria of the CST Policy and the new lease is on substantially the same terms and conditions as the terminated lease previously approved by City Council.
5. City Council authorize the Chief Corporate Officer, in consultation with the Executive Director of SDFA, and/or the Division Head responsible for the tenants' programs, to consent to the subleasing of space occupied by a tenant pursuant to the CST Policy to no more than two subtenants, provided any such subtenant meets all criteria of the CST Policy and enters into a sublease acknowledgement agreement with the City.
6. City Council authorize severally each of the Chief Corporate Officer and the Director, Real Estate Services to execute such leases, and any related documents on behalf of the City.
7. City Council request that the Chief Corporate Officer and Executive Director of SDFA, in consultation with the City Solicitor, coordinate with the City Manager regarding the manner in which the delegations identified above can be incorporated in the new Delegation Framework being developed for City Council's consideration in relation to the City-wide real estate model.
8. City Council authorize the Deputy City Manager and Chief Financial Officer to refer up to \$75,000 on an ongoing basis to support the incremental operating expenses of Incubator Tenants using City Space under the CST Policy to the 2018 budget process for consideration with other priorities.

9. City Council direct the Chief Corporate Officer to include a summary of Community Space Tenancies authorized by Council or by delegated authority in the annual report to the Government Management Committee on all real estate transactions.

10. City Council authorize an amendment to the definition of "sale" in Chapter 213, Sale of Real Property of the City of Toronto Municipal Code to clarify the manner in which the term of a lease of City property is calculated for the purposes of same, by specifying that a lease of City property constitutes a sale only in circumstances where the unexpired term of the lease, including any rights of renewal or extension, exceeds 21 years, and authorize the Chief Corporate Officer and City Solicitor to take such steps as are required to give effect to this amendment including the introduction in Council of any bills necessary to give effect thereto.

## **FINANCIAL IMPACT**

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Approval of the CST policy will allocate sites to community organizations that provide services aligned with the goals and objectives of the City and its divisions. Actual financial implications will be determined on a site-by-site basis as space is recommended for CST lease, and will include foregone rental revenue and property tax revenue for CST tenants in City spaces designated as municipal capital facilities.

There are currently 142 City-owned or managed spaces that are leased at lower than market value, either under the Below Market Rent policy or through historical or special lease arrangements.

An allocation of up to \$75,000 on an ongoing basis to support the incremental operating expenses of Incubator Tenants using City Space under the CST Policy will be referred to the 2018 budget process for consideration with other priorities.

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

## **DECISION HISTORY**

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On October 1, 2, and 3, 2002, Council adopted the report titled 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>

At its meeting on June 24, 25 and 26, 2003, Council adopted the report titled Implementation of the Policy for City-owned Space Provided at Below Market Rent outlining the below-market rent implementation work plan and further refinement of the eligibility criteria.

<http://www.toronto.ca/legdocs/2003/minutes/council/cc030624.pdf>

At its June 27, 28 and 29, 2006 meeting, Council adopted the report from the Community Services Committee titled Increasing the Supply of Space Available for Community Use. Council clarified its priorities by endorsing the policy direction of designating community use as the second priority for the allocation of surplus City owned property, after the development of affordable housing.

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060627/cms4rpt/cl010.pdf>

At its meeting on November 19 and 20, 2007, Council adopted the report titled Providing City-Owned Space to Community Organizations at Below-Market Rent. In adopting this report, Council granted authority to enter into below market rent leases with existing 73 non-profit organization tenants provided there is no negative financial impact to the City, and directed that new space made available for community use through the City's surplus property disposal process or negotiated in Section 37 agreements be allocated through a competitive process.

<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-7803.pdf>

At its meeting on September 26 and 27, 2011, Council adopted the report titled Core Service Review - Final Report to Executive Committee. This report requested that the City Manager undertake a study of community infrastructure provided through libraries, community centres, community hubs, related agencies and organizations, and report to the Executive Committee on a plan that maximizes the use of the City's assets and enhances service system coordination.

<http://www.toronto.ca/legdocs/mmis/2011/ex/bgrd/backgroundfile-40702.pdf>

City Council on November 27, 28 and 29, 2012, directed in its 2012 Update on the Policy for City-Owned Space Provided at Below-Market Rent report that a "Return on Investment" measure be developed and included in future BMR reports, and that new spaces made available through the City's surplus property disposal process or negotiated in the Section 37 development process must be made available through a competitive process except where a local development process has already taken place.

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

On April 3 and 4, 2013, City Council adopted a report and recommendations from the Ombudsman on the "2013 Investigation Report from the Ombudsman on the City's Below Market Rent Program." This is the Ombudsman report based on an investigation of the Below Market Rent Program. The report contains 22 recommendations to strengthen the Below Market Rent Program and ensure better customer service to tenants.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.CC32.4>

## COMMENTS

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There are currently 142 tenancies in City-owned or managed spaces leased at lower than market value, either under the Below Market Rent policy or through historical or special lease arrangements. The provision of accessible community space is a key component of building strong neighbourhoods. Community use of City space at below-market rent is a form of collaboration and investment in community and cultural organizations. These organizations in turn provide community programs and services that are aligned with the City's strategic objectives. The absence of community space directly impacts the availability of programs and services that are responsive to local needs. The CST policy is intended to provide accessible community space in a fair, transparent and equitable manner.

SDFA and Real Estate Services (RES) have reviewed the BMR policy and procedures in consultation with staff of Facilities Management, Parks, Forestry & Recreation (PFR), Economic Development & Culture (EDC), Legal Services, Children Services and a range of current tenant organizations.

The intention of the CST policy is to replace existing BMR lease agreements within five years of the CST policy coming into effect. New CST tenants, or existing below-market rent tenants without leases or whose lease terms, including any renewals, have expired, will enter into new leases pursuant to the CST policy. In the limited cases where the unexpired term of an existing below-market rent tenancy is greater than five years, a new lease will be entered into with the subject tenant upon expiry of the term, provided the tenant meets the criteria set out in the CST policy. The BMR policy will be rescinded at such time when the final lease thereunder has expired or been terminated.

To be eligible for a Community Space Tenancy lease or sublease, an organization must:

- be incorporated as a not-for-profit corporation, and may not be a subsidiary or related entity of a for-profit corporation or a for-profit social enterprise;
- provide social or health programs and/or services (excluding emergency shelters and housing) or cultural or recreational services to Toronto residents that meet a community need, and which are consistent with the strategic directions or objectives of City Council and/or a City Division;
- satisfy the City that it is in good financial standing and is not in default under any existing lease, service agreement, or other agreement with the City, and has limited risk of insolvency or bankruptcy;

- satisfy all requirements outlined in the Request for Expressions of Interest (REOI), in the CST policy and comply with all applicable laws and policies of the City.

The CST policy retains important elements of the previous approach, such as nominal rental rates, building operating costs and a REOI process to invite applications for available City space (Appendix 1 - Occupancy Cost Allocations for Community Space Tenancies).

## **Key Proposed Changes:**

### **Three Types of Community Space Tenancies**

The BMR policy was originally designed and resourced to meet the needs of organizations that have a well-developed governance capacity, can utilize the space on a full time basis, and see themselves primarily as a tenant of the City rather than as a service partner. Because non-profit organizations that are best positioned to meet community needs may not always fit this description, neither the organization nor their communities are always well- served by the "one-size-fits all" approach of the existing BMR policy.

In response to this, the CST policy proposes three distinct tenancy types:

- *Community Partner Tenant*  
A single non-profit organization leasing a dedicated City space providing stable, consistent, and accessible community programs and services. The tenant will be responsible for all operating costs associated with the occupancy of the City space.
- *Community Hub Tenant*  
Three or more non-profit organizations each leasing their own dedicated space within a City facility with intentional program and service collaboration and integration. Each tenant is responsible for their proportionate share of operating costs, which will reflect both dedicated and common space of the City facility. All tenants will agree to a co-location agreement that sets out the terms of integration, dispute resolution and shared services.
- *Incubator Tenant*  
Short-term leases for grassroots organizations to meet an emerging need, and to develop organizational capacity. Incubator tenant will be co-located with a Community Partner tenant or in a Community Hub. Operating costs associated with incubator tenancies will be borne by SDFa or the City Division that supports the program and services of the Incubator Tenant for maximum of four years (two year lease, with the possibility of second two year lease).

## **Initial Lease Terms and Successive Terms**

For Community Partner and Community Hub Tenants, the CST policy establishes a standard lease term of five years, but provides flexibility for shorter or longer terms if the organization can demonstrate to the City's satisfaction a need based on capital or operating funding requirements; for example, tenants that plan to invest significant capital in a City space may qualify for a longer lease term. For Incubator Tenants, the lease term is two years, with the possibility of a successive term of two years. After a maximum of four years, Incubator Tenants will have the opportunity to apply for a CST tenancy as either a Community Partner or Community Hub Tenant, or leave the CST portfolio.

Pursuant to the CST policy, the initial lease will require City Council approval. However, approval for new leases with tenants occupying space pursuant to the CST policy when a prior lease has expired would be through the delegated authority of the Chief Corporate Officer, in consultation with the Executive Director of SDFa and/or the Division Head responsible for the tenants' programs, provided that such tenant remains in good standing, continues to meet all criteria of the CST policy, and the new lease is on substantially the same lease terms and conditions for such tenant previously approved by City Council.

## **Streamlined, Transparent and Consistent Application Process**

The majority of existing BMR tenants were identified through a City-wide REOI process whereby the City issues a notice to the public that invites application for a below-market rent tenancy in an available City space. Interested incorporated, not-for-profit organizations, submit a proposal which is reviewed for eligibility, and the successful tenant is selected through a points-based panel review process. The REOI process allows City goals and objectives to be incorporated on a property-specific basis, taking into account the needs of the neighbourhood in question, the nature of the space available, and emerging divisional and City priorities. Site-specific assessment criteria are included in the REOI. These assessment criteria will determine the degree to which organizations are aligned with neighbourhood-specific goals and objectives, and the likelihood of organizations achieving their stated objectives.

To better manage the space allocation process, the CST policy proposes that all CST spaces be promoted through a CST web portal that would be hosted on the SDFa website. All CST opportunities will continue to be promoted through an REOI or to interested organizations who sign up to receive CST notifications. This process will also be used to advertise subleasing opportunities with Community Partner Tenants.

## **Support for Social Purpose Enterprise and Subleasing**

Due to the unsustainable nature of funding in the not-for-profit sector, some community agencies are exploring other revenue generating options in an effort to be more self-reliant. A social purpose enterprise refers to a program or service delivered by the tenant, such as an employment training café or printing press, where the primary purpose aligns with the social, health, cultural or recreational services being provided by a tenant. The activity may generate revenue ancillary to that purpose, and is solely used to support the tenant's program and administration.

To support this emerging trend, the CST policy will permit CST tenants to engage in social purpose enterprise activities within CST space provided the tenant receives prior approval from the Executive Director of SDFa and the Division Head responsible for the tenants' programs. As part of the annual reporting, organizations must demonstrate that net revenue generated is re-invested directly into programs and services delivered by the organizations at the CST space. The social purpose enterprises will be subject to City approval prior to being established in a CST space.

During consultation with a range of current tenant organizations, tenants have expressed their desire to be able to sublease a portion of their space to offset their operating costs and/or address a need within their communities. There are very rare instances where subleasing has occurred without the consent or knowledge of the City, which adds a level of risk and liability to the City. The CST policy supports organizations and reduces risk by allowing Community Partner Tenants to formally sublease to no more than two subtenants on a cost recovery basis. Subtenants of BMR tenants in possession of their subpremises as of the effective date of the CST policy will be required to enter into a sublease acknowledgement agreement at the same time the tenant enters into its initial lease pursuant to the CST policy, and the aforementioned limit on two subtenants shall not apply to any subtenants in possession as of June 1, 2017.

This approach ensures that the City is aware of subleasing arrangements, that all subtenants meet the CST requirement, and that all organizations have an opportunity to apply for space. It also demonstrates the City's commitment to strengthening partnerships with and within the not-for-profit sector in order to provide the broadest range of services to communities.

## **Social Cost Saving Derived from CST Space and Annual Reporting**

Organizations delivering services and programs pursuant to the CST policy will fully align with the City's strategic objectives, and can be compared to programs that would be otherwise delivered directly by a City Division or Agency. The City therefore derives social value from leasing spaces pursuant to the CST policy. City Council previously directed staff to develop a measure for Social Return on Investment (SROI) to quantify the value of BMR tenancies. Some challenges encountered in developing the SROI



have been the lack of available outcome data from City divisions as well as tenants, and finding enough financial proxies to measure social impact.

Until a meaningful SROI calculation is available, an annual reporting criteria will be included as a term of the CST lease agreement. This reporting mechanism will capture the range of programs and services being provided on-site, operating and capital budgets, and number and range of clientele and partnerships.

### **Municipal Capital Facility Designation and Amendment to Municipal Code**

Section 252 of the *City of Toronto Act, 2006*, allows the City to enter into agreements for municipal capital facilities which may provide for an exemption of all or part of the taxes levied for municipal and school purposes on land on which municipal capital facilities are or will be located. Ontario Regulation 603/06 prescribes various classes of property eligible as municipal capital facilities for which such tax exemptions may be granted. These classes of property include cultural, recreational, social or health services. However, there are some restrictions on exempting lands for the provision of cultural, recreational or tourist purposes, such that the facility must be City-owned, primarily for local community use, for City purposes and for a public use in accordance with Ontario Regulation 603/06.

The City seeks Community Space Tenancies to deliver cultural, recreational, health and social services in partnership with community organizations that the City would otherwise be directly providing to meet its strategic goals and priorities. For this reason, when seeking City Council approval for any Community Space Tenancy, Council recommendation shall also be sought to designate the CST space as municipal capital facility and to request a property tax exemption from municipal and educational purposes, if applicable. This measure would provide reassurance and a significant financial benefit to community organizations and the residents who rely on their services. CST leases would stipulate that the CST tenant would be responsible for property taxes in the event that the Municipal Property Assessment Corporation determines the CST space is taxable.

Chapter 213, Sale of Real Property, of the City of Toronto Municipal Code stipulates that a lease of City property exceeding 21 years constitutes a "sale". As such, any leases or renewals resulting in cumulative lease term in excess of 21 years would be subject to the current City's real estate disposal process, whereby such disposition of City property would first have to be declared surplus and the intended manner of disposal be approved, following which notice to the public of the proposed sale is given.

This report recommends that Chapter 213 be amended such that the definition of "sale" will only apply in circumstances where the unexpired term of the lease exceeds 21 years, including any rights of renewal or extension. This will not hinder the City's ability to undertake an asset review as required, but will provide for a more expeditious processing of leases or renewals not exceeding 21 years of lease term. This change will provide more stability and support long term financial planning for CST tenants.

This report has been prepared in consultation with staff from Facilities Management, Parks, Forestry & Recreation, Economic Development & Culture, Children Services, and City Legal Services.

### **Next Steps**

Upon adoption of the CST policy, SDFA, RES and other City stakeholders will continue to collaborate to develop procedures and plan for January 1, 2018 implementation.

### **CONTACT**

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### **SIGNATURE**

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Chief Corporate Officer

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### **ATTACHMENTS**

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Appendix A – Community Space Tenancy Policy  
Appendix 1 - Occupancy Cost Allocations for Community Space Tenancies

## **Community Space Tenancy Policy**

### **1. Policy Statement**

The City has a history of providing City Space to not-for-profit community and cultural organizations at Below-Market Rent. These organizations are important partners in furthering the delivery of the City's strategic objectives through programs and services to Toronto residents that meet a community need. This policy supports this ongoing collaboration and investment in not-for-profit community and cultural organizations through a transparent, accountable and fair framework for the provision of these leased City Spaces.

This Policy replaces the previous Policy for City-Owned Space Provided at Below-Market Rent. All new Community Space Tenancies granted as of the effective date of this policy must be granted pursuant to, and comply with, this policy. Organizations already using City Space under the previous policy will be incorporated into this policy framework upon the expiration of their existing leases. Organizations currently occupying City space without a lease, or that have a lease without a specified term limit, will be brought in compliance with the Community Space Tenancy policy within five years of it coming into effect.

This policy does not apply to short-term or occasional permits or licences issued by the City for the use of City Space.

### **2. Definitions**

2.1 Agency refers to a City-controlled body created by the City to deliver specific services or operate certain activities.

2.2 Below-Market Rent refers to a rental cost charged by the City to lease City Space that is below the market rate identified by the City for that space or a comparable space.

2.3 City refers to the City of Toronto.

2.4 City Council refers to the main governing and legislative body for the City.

2.5 City Space refers to any space owned or leased by the City, including but not limited to a commercial building, cultural facility, heritage building or industrial building, or vacant land.

2.6 Community Hub Tenancy refers to a type of Community Space Tenancy intended to support a variety of services and programs, and which is characterized by three or more Tenants co-located in a space with intentional service and program integration. A Tenant in a Community Hub Tenancy may be referred to as a "Community Hub Tenant".

2.7 Community Partner Tenancy refers to a type of Community Space Tenancy intended to support services and programs, typically delivered by a single organization. A Tenant in a Community Partner Tenancy may be referred to as a "Community Partner Tenant".

2.8 Community Space Tenancy refers to a leasing arrangement at Below-Market Rent, between the City and a Tenant for City Space.

2.9 Division Head refers to the Executive Director, General Manager or otherwise-named head of a City Division.

2.10 Incubator Tenancy refers to a type of Community Space Tenancy intended to support a not-for-profit organization with shared space within a Community Partner or Community Hub Tenancy to build organizational capacity and develop programs to meet a new or emerging community need. A Tenant in an Incubator Tenancy may be referred to as an "Incubator Tenant."

2.11 Municipal Capital Facility refers to a City Space that is made exempt from property taxation under subsection 252(6) of the *City of Toronto Act, 2006* as a facility used for the provision of social or health services or for cultural or recreational services pursuant to paragraphs 10 and 16 subsection 2(1) of Ontario Regulation 603/06, as applicable.

2.12 Not-for-profit refers to a federally or provincially incorporated not-for-profit organization.

2.13 Operating Division refers to the City Division that is responsible for the operational management of a City Space.

2.14 Request for Expression of Interest or REOI refers to a notice issued by the City that invites applications for a Community Space Tenancy in an available City Space.

2.15 Social Purpose Enterprise refers to a program or service delivered by a Tenant in a City Space, where the primary purpose is part of the social, health, cultural, or recreational services being provided by the Tenant but which may generate revenue ancillary to that purpose and which revenue is solely used to support the Tenant's program and administration.

2.16 Sublease Acknowledgement Agreement refers to an agreement entered into amongst the City, a Community Partner Tenant and a Subtenant in respect of the sublease of a Community Space Tenancy.

2.17 Subtenant refers to an organization that subleases a portion of City Space from a Community Partner Tenant.

2.18 Supporting Division refers to the City Division that supports the programs offered by at Tenant, and which may or may not also be the Operating Division.

2.19 Tenant refers to an organization that leases City Space pursuant to a Community Space Tenancy.

### **3. Eligibility for Community Space Tenancies**

3.1 An organization seeking to apply for or enter into a new Community Space Tenancy or a sublease thereof must:

3.1.1 be a Not-for-profit corporation, and may not be a subsidiary or related entity of a for-profit corporation or a for-profit social enterprise.

3.1.2. provide social or health services or cultural or recreational services to Toronto residents that:

- a) Meet a community need;
- b) Which are consistent with the strategic direction and neighbourhood, and/or specific objectives of City Council and/or a City Division;
- c) Are services that the City may otherwise provide; and
- d) Will be the only services and functions provided in the City space and will be available to the public.

3.1.3 be in good financial standing and not in default under any existing lease, service agreement, or other agreement with the City, and have limited risk of insolvency or bankruptcy;

3.1.4 satisfy all requirements outlined in the Request for Expressions of Interest and in this policy, and comply with all applicable laws and policies of the City.

3.1.5 if, at any time during the term of a Community Space Tenancy, a Tenant fails to satisfy any or all of the above criteria, the City shall be entitled, upon sixty days' notice, to terminate the subject Community Space Tenancy.

## **4. Application and Review Process for Community Space Tenancies**

4.1 All Community Space Tenancies and subleases thereof, unless excepted under section 4.2 of this policy, will be made available to eligible organizations through a Request for Expressions of Interest process administered by Social Development, Finance and Administration Division. The Executive Director of Social Development, Finance and Administration will invite applications for the City Space by issuing an REOI in a form as set out in Appendix 1, and which will include at a minimum:

4.1.1 a description the City Space available;

4.1.2. geographic and demographic information, including local area studies if available and socioeconomic information of households in the area;

4.1.3. any service or program priorities and requirements of the City, Operating Division and/or the Supporting Division for the area;

4.1.4. an estimate based on the previous or current annual and expected future operating costs, capital costs, municipal taxes and any other costs associated with the City Space, and the responsibilities of the City and Tenant or Subtenant, as the case may be, with respect to these costs;

4.1.5. requirements for any regular or periodic reporting by the Tenant or the Subtenant, as the case may be, to the City on use of City Space, programs and services being offered, and other information as required by the City;

4.1.6. requirements for insurance coverage;

4.1.7. parameters for identifying Incubator Tenants, which will be consistent with the criteria used by Social Development, Finance and Administration to assess eligibility for community grant funds;

4.1.8. the requirement for the organization to attest that it will be providing only social, health, recreational or cultural services to the public from the City Space and that the City Space will be occupied and used by the Tenant for a service or function that would otherwise be provided by the City;

4.1.9. the requirement for the organization to complete and sign a Declaration of Compliance with the City's Human Rights and Anti-Harassment/ Discrimination Policy; and

4.1.10. evaluation criteria that identify how applications will be reviewed and the preferred Tenant or Subtenant selected.

4.2 Community Space Tenancies intended to provide child care services in City Spaces under purchase of service agreements between Children's Services Division and a third-party provider are subject to this policy but exempt for the requirements to issue a Request for Expressions of Interest as described in Section 4.1 of this Policy. Children's Services will review and award Community Space Tenancies through a separate, transparent Request for Expressions of Interest process.

4.3 All REOI applications will be reviewed by a review panel comprised of Real Estate Services, Facilities Management, Social Development, Finance and Administration and the Operating Division and Sponsoring Division (if applicable) and will apply the evaluation criteria set out in the REOI. In the case of Community Hubs, the hub may have a representative on the selection panel. In the case of subleasing, the Head Tenant may participate on the panel.

4.4 In cases where the City Space is leased by the City from a third-party landlord, the REOI review process will include provisions for obtaining landlord consent, where required.

4.5 Upon identification of a proposed Tenant or Subtenant, Real Estate Services and Social Development, Finance and Administration will submit a report to City Council that will include:

4.5.1 Recommendation to enter into a Community Space Tenancy lease with the proposed Tenant or Sublease Acknowledgement Agreement with the proposed Subtenant;

4.5.2 The major terms and conditions of the Community Space Tenancy or Sublease Acknowledgement Agreement;

4.5.3 Recommendation for a Municipal Capital Facility by-law, if applicable, which provides a property tax exemption, as per section 5.4 of this Policy; and

4.5.4 Relevant details of the City Space, including estimated operating and capital costs for the first year of the term of the lease or sublease, as the case may be, and services and programs to be delivered.

## **5. Community Space Tenancy Leases and Agreements**

5.1 Each organization in a Community Space Tenancy must sign a lease or a Sublease Acknowledgement Agreement, as the case may be, created and administered by Real Estate Services in consultation with Legal Services, on a form approved by Legal Services.

5.2 The lease for Community Partner Tenants will permit subleasing of a portion of the City Space to a maximum of two Subtenants, except as set out in Section 5.3, subject to the consent of the Chief Corporate Officer, in consultation with the Executive Director of Social Development, Finance and Administration and/or the Supporting Division, and under the conditions that include but are not limited to:

5.2.1 that the City Space be made available through the REOI process;

5.2.2 that the Subtenant meets eligibility requirements of this Policy;

5.2.3 that the City, the Community Partner Tenant and the Subtenant enter into a Sublease Acknowledgement Agreement;

5.2.4 that the term of the Sublease Acknowledgement Agreement be no longer than the term of the Community Partner Tenant's lease;

5.2.5 that the Community Partner Tenant be permitted to charge costs to the Subtenant on a cost-recovery basis only;

5.2.6 that the Community Partner Tenant retain responsibility for all costs and requirements as per the lease with the City.

5.3 Subtenants of BMR tenants in possession of their subpremises as of the effective date of the CST policy will be required to enter into a Sublease Acknowledgement Agreement at the same time the tenant enters into its initial lease pursuant to the CST policy, and the aforementioned limit on two subtenants shall not apply to any subtenants in possession as of June 1, 2017.

5.4 Social Development, Finance and Administration and/or the Supporting Division requires Tenants to enter into additional agreements for service delivery.

5.5 All initial leases entered into pursuant to this Policy must be approved by City Council.

5.6 City Council has authorized the Chief Corporate Officer, in consultation with the Executive Director of Social Development, Finance and Administration and/or the Supporting Division, to approve, subject to compliance on the part of the Tenant or the Subtenant, as the case may be, with this policy, the following:

5.6.1 new leases with Tenants occupying City Space pursuant to this policy whose prior leases have expired provided the new leases are on substantially the same terms and conditions as the initial leases previously approved by City Council;



5.6.2 lease arrangements for vacant space located within a City facility occupied by three or more tenants operating with intentional program and service integration pursuant to this policy, where such vacancy arises from the termination of a prior tenancy by the City, provided the new lease is on substantially the same terms and conditions as the terminated lease previously approved by City Council; and

5.6.3 Sublease Acknowledgement Agreements.

5.7 In the exercise of the approval authority set out in Section 5.6., leases and Sublease Acknowledgement Agreements must meet minimum conditions as deemed appropriate by the City, including but not limited to the following:

5.7.1 a new lease must contain substantively the same terms and conditions as the previous lease;

5.7.2 the term of a new lease shall not exceed the term of the previous lease;

5.7.3 Tenant or Subtenant must be in good standing and not in default under any lease or other agreements with the City, and must be delivering services and programs to the satisfaction of the City;

5.7.4 Tenant or Subtenant must be in good financial standing with limited risk of insolvency or bankruptcy;

5.7.5 no portion of the City Space is used for purposes not described in the lease or any other agreements with the City;

5.7.6 Tenant or Subtenant must comply with and maintain its eligibility criteria throughout the term as outlined in section 3 of this policy; and

5.7.7 Tenant or Subtenant must comply with all applicable provisions of this policy.

5.8 Notwithstanding Section 5.6, the Chief Corporate Officer may, at any time, refer the consideration of any agreement anticipated hereunder to City Council for its determination and direction.

5.9 The standard term of a lease pursuant to this policy will be five years for a Community Partner Tenant or Community Hub Tenant, and two years for an Incubator Tenant, and the City may at its sole discretion adjust the term at the request of the Tenant at the time the lease is entered into by the City and the Tenant;

5.10 An Incubator Tenant may enter no more than two consecutive leases for a total term of four years, after which the organization can apply for a CST as either a Community Partner or Community Hub Tenant under the terms of this Policy.

5.11 When seeking City Council approval for any initial Community Space Tenancy, Real Estate Services, where appropriate, will concurrently request Council recommendation of a property tax exemption for the space to be leased to the Tenant as a municipal capital facility for the provision of social and health services or cultural or recreational services pursuant to subsection 252(6) (c) of the City of Toronto Act, 2006 and paragraphs 10 and 16 of subsection 2(1) of Ontario Regulation 603/06.

5.12 For Community Space Tenancies intended to provide cultural services, Real Estate Services may or may not request Council recommendation of a property tax exemption as a municipal capital facility, pursuant to restrictions provided in subsection 6 of Ontario Regulation 603/06.

5.13 Real Estate Services is responsible for managing, monitoring and informing Operating and Supporting Divisions of Community Space Tenancies one year in advance of the subject lease expiry dates.

## **6. Administration and Occupancy Cost Responsibilities.**

6.1 Real Estate Services, Social Development Finance and Administration and the relevant Supporting Division will coordinate the administration of Community Space Tenancies and this policy.

6.2 Social Development Finance and Administration is responsible for addressing all program-related issues including internal Tenant disputes, with the support of Real Estate Services and the Supporting Division.

6.3 Any dispute arising from a Purchase of Service Agreement will be addressed by the relevant Supporting Division and the Tenant.

6.4 Responsibilities for operational and capital costs associated with each type of Community Space Tenancy are outlined in Appendix 2.

## **7. Social Purpose Enterprises**

7.1 All Tenants are permitted to engage in Social Purpose Enterprise activities to generate revenue to build capacity and enhance programming, provided the Tenant receives prior approval from the Executive Director of Social Development, Finance and Administration and the Supporting Division.

7.2 All revenue generated is ancillary to the Tenant's primary mandate and is reinvested in service and program delivery at the City Space leased by the Tenant and reported to the City as per Section 8 of this policy.

## **8. Reporting and Monitoring**

8.1 All Tenants shall submit an annual report to Real Estate Services and Supporting Division each year, in a format and by a deadline to be determined by the City.

8.2 The Supporting Division is responsible for providing copies of all Tenant reports to Real Estate Services and Social Development, Finance and Administration Division Heads or their designate.

8.3 Real Estate Services will include a summary of Community Space Tenancies in its annual report to Government Management Committee on all real estate transactions.

8.4 Tenants with Service Agreements with Children's Services Division are exempt from the reporting requirements of this policy, but subject to any reporting requested by Children's Services.

## **9. Appeals and Dispute Resolution Process**

9.1 If any organization or person would like to make a complaint or request a review of a decision made in accordance with this policy, they may request a review, in writing, to Social Development, Finance and Administration.

9.1.1 the Executive Director of Social Development, Finance and Administration or designate will review the request or complaint and make a determination and respond in writing to the applicant or complainant.

9.1.2 the Executive Director of Social Development, Finance and Administration or designate may seek input or advice from other City Divisions as appropriate.

9.1.3 any complaints or requests arising from a Purchase of Service Agreement will be addressed by the relevant Supporting Division and may seek input or advice from other City Divisions.

9.2 The process and instructions on how to submit a complaint, comment or concern will be posted on the City's website and be accessible in print upon request.

### Links

City of Toronto Act, 2006 <https://www.ontario.ca/laws/statute/06c11#BK9>

Ontario Regulation 603:06: Municipal and School Capital Facilities – Agreements and Tax Exemptions <https://www.ontario.ca/laws/statute/06c11#BK9>

Canada Not-for-profit Corporations Act (S.C. 2009, c. 23)

<http://laws.justice.gc.ca/eng/acts/c-7.75/>

**APPENDIX 1:**

**Occupancy Cost Allocations for Community Space Tenancies**

	<b>Community Partner Tenancy</b> (Tenant may assign within a Sublease a portion of costs to a Subtenant at or below cost-recovery)	<b>Community Hub Tenancy</b>	<b>Incubator Tenancy</b>
Building operating costs (utilities, security, cleaning, regular maintenance, minor repairs related to their programming and services and leasehold improvements)	Tenant is responsible for its proportionate share of costs.	Each Tenant is responsible for its proportionate share costs, including common areas.	Social Development, Finance and Administration (SDFA) is responsible for Incubator Tenant's proportionate share of building operating costs up to a total annual amount of \$75,000 distributed equally among all Incubator Tenants. The balance of building operating costs not paid by SDFA will be paid by the Tenant, unless the Operating or Supporting Division chooses to assume such costs.
Building capital costs - "fit up" to prepare space for initial occupancy	Tenant is responsible for capital "fit up" costs	Each Tenant is responsible for its proportionate share of capital "fit up" costs of its designated and/or common spaces as applicable	Operating Divisions may choose to assume capital costs associated with "fit up" for Incubator Tenants. The balance of fit up costs not paid by Operating Division will be paid by the Tenant.
State of good repair and building capital costs (i.e. less than \$50,000)	Operating Division is responsible if issue is related to building envelope or health and safety. Tenant is responsible for other state of good repair costs.	Operating Division is responsible if issue is related to building envelope or health and safety. Tenant is responsible for other state of good repair costs.	Operating Division is responsible for all state of good repair and building capital costs

	<b>Community Partner Tenancy</b> (Tenant may assign within a Sublease a portion of costs to a Subtenant at or below cost-recovery)	<b>Community Hub Tenancy</b>	<b>Incubator Tenancy</b>
Building capital costs (i.e. above \$50,000)	Operating Division is responsible for building capital costs	Operating Division is responsible for building capital costs	Operating Division is responsible for building capital costs
Property tax	Tenant is responsible for property tax attributable to their use unless exempted as a Municipal Capital Facility	Each Tenant is responsible for property tax attributed to their use unless exempted as a Municipal Capital Facility	Operating or Supporting Division is responsible for property tax attributed to their use unless exempted as a Municipal Capital Facility