

Toronto Employment and Social Services Lease at 111 Wellesley Street East

Date: August 31, 2021

To: General Government and Licensing Committee

From: Executive Director, Corporate Real Estate Management

Wards: 13 - Toronto Centre

SUMMARY

The purpose of this report is to obtain authority to enter into a retroactive lease agreement with Her Majesty the Queen in Right of Ontario as Represented by The Minister of Government and Consumer Services, as Represented by Ontario Infrastructure and Lands Corporation (the "Tenant"), for the lease of approximately 7,085 square feet of dedicated space (the "Leased Premises") and the use of approximately 8,563 square feet of shared space (the "Tenant's portion of the Shared Facilities") within portions of the first, second, and third floors of the City-owned building at 111 Wellesley Street East, Toronto, totalling 15,648 square feet, for the purposes of co-locating Toronto Employment and Social Services ("T.E.S.S.") and Ontario Disability Support Program ("O.D.S.P.") for a term of ten (10) years with the option to extend for an additional five (5) years commencing September 1, 2018 (the "Lease"). Due to operational demands in 2018 and the subsequent COVID-19 pandemic, staff were unable to move forward with the negotiation and execution of a lease agreement with the Tenant prior to the occupancy of O.D.S.P. within the Leased Premises. As such, the Lease will be executed after the commencement date.

The City completed renovations of 111 Wellesley Street East to accommodate the shared T.E.S.S. and O.D.S.P. uses at this location and the Tenant has already fully paid its proportionate share of the renovation costs to the City. The Tenant has been occupying the Leased Premises since the summer of 2018. The rent and other terms and conditions of the Lease over the ten (10) year term reflect market conditions at the time of negotiations in 2018 according to market research and valuation conducted by Corporate Real Estate Management staff.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management, recommends that:

Toronto Employment and Social Services Lease at 111 Wellesley Street East

1. City Council authorize the City to enter into a lease (the "Lease") with Her Majesty the Queen in Right of Ontario as Represented by The Minister of Government and Consumer Services, as Represented by Ontario Infrastructure and Lands Corporation (the "Tenant"), for a term of ten (10) years commencing September 1, 2018 with the option to extend for an additional five (5) years, for part of the City-owned building at 111 Wellesley Street East, substantially on the major terms and conditions as set out in Appendix A, including such other terms and conditions as may be deemed appropriate by the Executive Director, Corporate Real Estate Management, or their designate, and in a form acceptable to the City Solicitor.

2. The Executive Director, Corporate Real Estate Management, or their designate from time to time, shall administer and manage the Lease, including the provision of any consent, approval, waiver, notice, and notice of termination provided that the Executive Director, Corporate Real Estate Management may, at any time, refer consideration of such matter (including the content) to City Council.

FINANCIAL IMPACT

Based on the square footage of 15,648 square feet, the total revenue to the City for the ten (10) year term, inclusive of basic rent, additional rent, operating costs, realty taxes is estimated to be \$7,197,261 (inclusive of Harmonized Sales Tax) as detailed in Appendix C.

The Tenant is also entitled to a basic rent-free fixturing period of one (1) month and nine (9) days prior to the commencement of the term and a five (5) month basic rent-free period commencing at the start of the term during which there is no basic rent payable, but the Tenant is required to comply with all other terms of the Lease including payment of additional rent, operating costs, utilities and realty taxes. This basic rent-free fixturing period applies to the retroactive period July 23, 2018 to August 31, 2018 and the basic rent-free period applies to the retroactive period of September 1, 2018 to January 31, 2019. The total loss of revenue from the basic rent-free period between July 23, 2018 and January 31, 2019 is \$187,005 (inclusive of Harmonized Sales Tax).

Annual revenue to the City is detailed in Appendix C with 2018 - 2021 basic rent revenue to be directed to the 2021 Council Approved Operating Budget for Toronto Employment and Social Services under cost center C01214 and 2021 utility-related revenue and 2021 operating expenses and applicable realty taxes to be directed to the 2021 Council Approved Operating Budget for Corporate Real Estate Management under cost centers FA0942 and FA0295, respectively. Future year revenues will be referred to the City's annual budget process and will be included as part of the 2022 and future year budget submissions for City Council consideration.

T.E.S.S. has completed the renovation of the shared space at the Leased Premises and has fully recovered 31% of the construction costs from O.D.S.P., their proportionate allocation of the shared space, as of March 2020. The revenue for the Tenant's proportionate share of renovations costs was directed to capital budget account CSS903-01.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact section.

DECISION HISTORY

On July 5, 2017, City Council adopted MM31.35, which granted an exemption from the City's late payment fees and Non-Sufficient Funds fees, for all agreements for T.E.S.S. to co-locate/share space with the O.D.S.P., including leases, sublease, subsequent extensions/renewals, provided that the Ontario Disability Support Program is the only user/occupant of the shared space:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.MM31.35>

COMMENTS

The City owns the commercial portion of 111 Wellesley Street East, which includes the first four (4) floors of the building. The space has been occupied primarily by T.E.S.S.

T.E.S.S. uses the location as an Employment Center and back office for staff servicing part of the Toronto and East York District. T.E.S.S. and O.D.S.P. have partnered at several locations to co-locate both entities.

O.D.S.P. provides income and employment support to people with disabilities. Both T.E.S.S. and O.D.S.P. receive funding from the same provincial body, the Ministry of Community and Social Services. The advantages of the co-location include more efficient service delivery of benefits to clients by both T.E.S.S. and the Province of Ontario.

O.D.S.P. moved in on July 23, 2018 for fixturing purposes prior to the commencement of the term, accessing the first and third floors only, as the second floor was still under construction.

T.E.S.S. led the renovation of the shared space and has fully recovered 31% of the construction costs from O.D.S.P., which represents their proportionate allocation of the shared space. Construction of the space has been completed and renovation expenses have been settled as of March 2020.

Due to operational demands in 2018 and the subsequent COVID-19 pandemic, staff were unable to move forward with the negotiation and execution of a lease agreement with the Tenant prior to the occupancy of O.D.S.P. within the Leased Premises. However, the City has negotiated terms and conditions over the ten (10) year term that are reflective of market conditions in 2018, based on market research and valuation conducted by Corporate Real Estate Management staff.

Since occupancy of the Leased Premises on July 23, 2018 and up until September 30, 2021, the Tenant has not paid basic rent or additional rent. The resulting incurred rent is estimated to be \$2.15 million (inclusive of Harmonized Sales Tax). Concurrent with the parties' execution of the Lease, Corporate Real Estate Management staff will collect the outstanding basic rent plus H.S.T. and will conduct a reconciliation to determine the Tenant's actual share of additional rent plus H.S.T. (including operating expenses and applicable realty taxes). The outstanding additional rent plus H.S.T. will be collected by Corporate Real Estate Management staff after the reconciliation is settled, and thereafter on a monthly basis as outlined in the Lease. Apart from the outstanding basic and additional rent, the Tenant has been complying with the negotiated terms notwithstanding that the Lease has not been approved by City Council and executed by the parties. Corporate Real Estate Management staff recommends that City Council approve the Lease so that the parties can formally document the leasing arrangement, execute the Lease and allow staff from Corporate Real Estate Management to collect the outstanding basic rent and additional rent.

The Tenant does not owe any interest on outstanding rents as per City Council adoption of Item MM31.35 on July 4, 2017, where the Tenant was granted exemption from Late Payment fees and Non-Sufficient Fund fees for all agreements for T.E.S.S. to co-locate/share space with O.D.S.P. including leases, subleases, and subsequent extensions/renewals provided that O.D.S.P. is the only user of the shared space.

CONTACT

Alison Folosea, Director, Transaction Services, Corporate Real Estate Management, 416-338-2998, Alison.Folosea@toronto.ca

SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

ATTACHMENTS

Appendix A - Major Terms & Conditions
Appendix B - Location Map of 111 Wellesley Street East
Appendix C - Financial Impact Chart

Appendix A - Major Terms & Conditions

1. Leased Premises and Shared Space:

Part of the building located at 111 Wellesley Street East leased by the City to the Tenant. The Tenant will have 7,085.00 square feet of dedicated space (the "Leased Premises"). The Tenant and T.E.S.S. will share the shared space of 27,625 square feet, with the Tenant's portion of the shared space being 8,563.75 square feet (the "Tenant's portion of the Shared Facilities") (31% of the total shared space). The total leasable square footage occupied by Tenant is a combined 15,648.75 square feet.

2. Landlord:

City of Toronto

3. Tenant:

Her Majesty the Queen in Right of Ontario as Represented by The Minister of Government and Consumer Services, as Represented by Ontario Infrastructure and Lands Corporation

4. Term:

Ten (10) years commencing September 1, 2018 with the option to extend for an additional five (5) year term

5. Basic Rent:

Basic Rents are calculated on the square footage of the Tenant's dedicated space and the Tenant's portion of the Shared Facilities (totaling 15,648.75 square feet):

September 1, 2018 – Jan 31, 2019: \$0.00 per square foot (\$0.00 per annum)

February 1, 2019 – August 31, 2023: \$20.00 per square foot (\$312,975.00 per annum)

September 1, 2023 – August 31, 2028: \$22.00 per square foot (\$344,272.50 per annum)

6. Additional Rent:

Additional Rent is payable during the Fixturing Period and the Rent-free Period. Commencing July 23, 2018, the Tenant will pay Additional Rent which includes all taxes and operating costs in respect of the Leased Premises, together with the Tenant's Share (31%) of all taxes and operating costs for the lands and building (including all taxes and operating costs allocated to the common facilities and Shared Facilities).

7. Commencement of Term:

September 1, 2018

8. Fixturing Period:

That period commencing July 23, 2018 to August 31, 2018. During the Fixturing Period, the Tenant will be responsible for complying with all other terms of the Lease, including payment of Additional Rent.

9. Basic Rent-Free Period:

Toronto Employment and Social Services Lease at 111 Wellesley Street East

Five (5) months, commencing September 1, 2018 to Jan 31, 2019. During the Basic Rent-Free Period, the Tenant will be responsible for complying with all other terms of the Lease, including payment of Additional Rent.

10. Option to Extend:

One (1) option to extend for five (5) years. The Basic Rent for the Extension Term will be at fair market value, but not less than the Basic Rent payable in the last year of the Term. In the event that the parties cannot agree on the Basic Rent, the Basic Rent will be determined by independent appraised values.

11. Termination:

At any time during the Term and any extension thereof, either party shall have the right to terminate the Lease upon giving at least twenty-four (24) months' notice to the other party.

12. Net lease:

The Tenant accepts the Premises in an "as is" condition and acknowledges that, except as expressly provided in the Lease, the Lease is a carefree and absolutely net lease to the City.

13. Releases/Indemnity

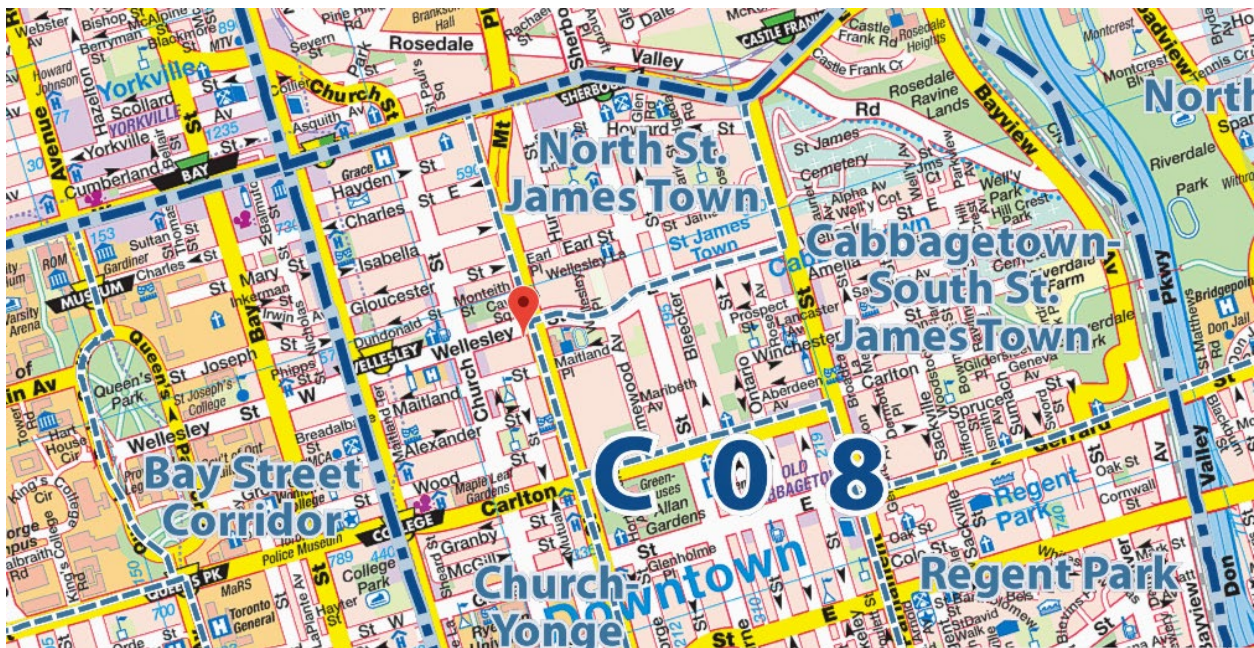
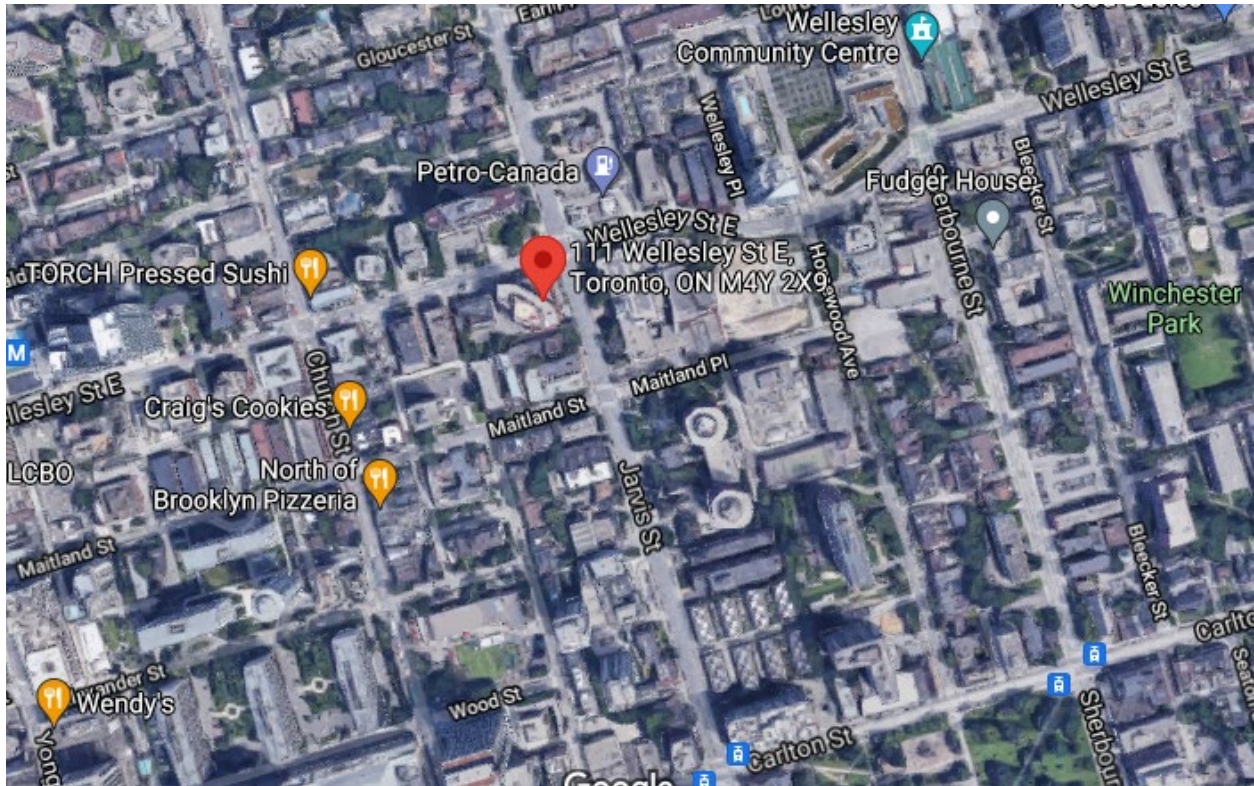
The Lease will contain mutual releases. The Tenant shall indemnify and hold the City harmless at all times from and against any and all actions, claims, charges, costs, damages, demands, expenses, losses and any other proceedings (including construction liens) in connection with any work done by the Tenant.

14. Use:

Social Service Office and related administrative Offices.

15. Tenant's Payment of Costs of Renovations: The City shall carry out and complete renovations for the Leased Premises prior to the Commencement date. The Tenant agrees to pay 31% of the cost, which totals to \$2,803,624 (inclusive of Harmonized Sales Taxes). The Landlord will acknowledge receipt of payment of the Tenant's share of the renovation costs.

Appendix B - Location Map of 111 Wellesley Street East



Appendix C - Financial Impact Chart

| Period | Basic Rent | Operating Expenses | Realty Tax | Subtotal | Total with Harmonized Sales Tax |
|--------------------------------|-------------|--------------------|-------------|---------------------|---------------------------------|
| July 23, 2018 - Dec 31, 2020 | \$763,928 | \$402,886 | \$281,126 | \$1,447,940 | \$1,636,172 |
| Jan 1, 2021 - Dec 31, 2021 | \$312,975 | \$177,882 | \$115,175 | \$606,031 | \$684,816 |
| Jan 1, 2022 - Dec 31, 2022 | \$312,975 | \$182,329 | \$115,175 | \$610,479 | \$689,841 |
| Jan 1, 2023 - Dec 31, 2023 | \$323,408 | \$186,887 | \$115,175 | \$625,469 | \$706,780 |
| Jan 1, 2024 - Dec 31, 2024 | \$344,273 | \$191,559 | \$115,175 | \$651,006 | \$735,637 |
| Jan 1, 2025 - Dec 31, 2025 | \$344,273 | \$196,348 | \$115,175 | \$655,795 | \$741,049 |
| Jan 1, 2026 - Dec 31, 2026 | \$344,273 | \$201,257 | \$115,175 | \$660,704 | \$746,596 |
| Jan 1, 2027 - Dec 31, 2027 | \$344,273 | \$206,288 | \$115,175 | \$665,736 | \$752,281 |
| Jan 1, 2028 - Aug 31, 2028 | \$229,515 | \$139,799 | \$76,783 | \$446,097 | \$504,089 |
| 10 year term | \$3,319,891 | \$1,885,234 | \$1,164,132 | \$6,369,257 | \$7,197,261 |
| Option of 5-year extension | \$1,721,363 | \$1,048,490 | \$575,874 | \$3,345,726 | \$3,780,671 |
| 10 year + 5 year extension | \$5,041,253 | \$2,933,724 | \$1,740,006 | \$9,714,984 | \$10,977,932 |
| Add: Renovation costs | N/A | N/A | N/A | \$2,487,741 | \$2,803,624 |
| Total estimated revenue | N/A | N/A | N/A | \$12,202,725 | \$13,781,556 |