



IN CAMERA

ADMINISTRATIVE REPORT

Report Date: January 2, 2019
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VanRIMS No.: 08-2000-21
Meeting Date: January 29, 2019

TO: Vancouver City Council

FROM: General Manager of Real Estate and Facilities Management

SUBJECT: Lease and Option to Renew – premises located at 814 Richards Street by the City of Vancouver

IN CAMERA RATIONALE

This report is recommended for consideration by Council on the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter* (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the city.

RECOMMENDATION

- A. THAT Council authorize the Director of Real Estate Services to negotiate and execute a lease of 5,847 square feet (the "Lease"), for additional office accommodations for a term of two years and four months commencing April 1, 2019 (the "Term"), between Thomas Downie Holdings Ltd. (the "Landlord"), and the City of Vancouver (the "Tenant"), for the premises located at Suite 402 - 814 Richards Street, Vancouver, B. C., legally described as PID: 008-189-200, 008-189-277, 008-189-315, Amended Lot 5, Lot 6, Lot 7, and Lot 8, all of Block 65, District Lot 541, Plan 210 (the "Premises", as shown in Appendix A) at a total rental value of s.17(1) plus GST for the Term, on the following terms and conditions:

Term: Two years and four months from February 1, 2019, (the "Possession date")

Lease Area: Approximately 5,847 square feet.

Net Rent: s.17(1) per annum (s.17(1) per square foot rate plus GST).

Parking: 3 parking stalls at a market rate of s.17(per stall, plus 21% transit levy and GST, and subject to market rate adjustments over the term of the Lease.

Operating Costs & Taxes: Not less than s.17(1) per square foot (estimated for 2018) per annum in Year 1. Operating costs to include: repair, maintenance, building, management, security, utility, supplies, janitorial, and landlord insurance.

Fixturing Period: s.17(1) free basic rent from the Possession Date.

Commencement Date: April 1, 2019.

Indemnity by Tenant: To indemnify and hold harmless the Landlord from and against any claims, losses, actions, suits, damages, costs and charges (“Claims”) arising out of or in connection with any injury or losses or damage to property arising from or caused by:

- (i) The Lease;
- (ii) Any occurrence in, upon or at the Premises;
- (iii) Occasioned by any fault, default, negligence, act or omission of the Tenant, the Tenant’s personnel responsible; or
- (iv) Breach of environmental provisions in the Lease.

Other Terms and Conditions: Such other terms and conditions of the Lease are to be drawn to the satisfaction of the Directors of Legal and Real Estate Services, it is being noted that no legal rights or obligations shall arise or be created until the Lease document is fully executed by both parties;

and

- B. THAT Council authorize the Director of Real Estate Services to negotiate and execute an Option to Renew for a renewal term of five (5) years for the 5,847 sq. ft. Lease plus the 36,173 square feet sublease (the “Sublease”), currently leased by the Tenant from CBV Collection Services Ltd. (the “Sub-Landlord”). If the Tenant exercises the Option to Renew for the combined Lease and Sublease, the Tenant will then enter into one “Renewal Lease” directly with the Landlord, for total premises measuring 42,020 sq. ft. (the “Renewal Lease Premises”, as shown on Appendix B) on the following general terms and conditions:

- Renewal Lease Term: Five (5) years from August 1, 2021 (2021 is defined as Year 1)
- Renewal Lease Area: Approximately 42,020 square feet
- Net Rent: Fair Market Net Rent, to be negotiated by the Tenant and Landlord and failing agreement, to be settled by arbitration pursuant to the Commercial Arbitration Act of British Columbia.
- Parking: 17 parking stalls at the then market rent, plus 21% transit levy and GST, and subject to market rate adjustments over the term of the Lease
- Operating Costs & Taxes: To be estimated by the Landlord annually and reconciled at the end of each year of the Renewal Lease Term. Operating costs to include: repairs, maintenance, building management, security, utility, supplies, janitorial, and landlord insurance.
- Commencement Date: The day next following the expiry of the Lease and Sublease (July 31, 2021).
- Indemnity by Tenant: To indemnify and hold harmless the Landlord from and against any claims, losses, actions, suits, damages, costs and charges (“Claims”) arising out of or in connection with any injury or losses or damage to property arising from or caused by:
- (v) The Renewal Lease;
 - (vi) Any occurrence in, upon or at the Renewal Lease Premises;
 - (vii) Occasioned by any fault, default, negligence, act or omission of the Tenant, the Tenant’s personnel responsible; or
 - (viii) Breach of environmental provisions in the Renewal Lease.
- Other Terms and Conditions: Such other terms and conditions of the Renewal Lease are to be drawn to the satisfaction of the Directors of Legal and Real Estate Services, it being noted that no legal rights or obligations shall arise or be created until the Renewal Lease document is fully executed by both parties.
- and

- C. THAT subject to approval of Recommendations A & B, Council approve up to s.17(1) for the Tenant improvements and furnishings on the 5,847 sq. ft. Premises. This will be funded from the 2019 Capital project budget for Office Workspace expansion.

REPORT SUMMARY

The report seeks Council approval for the Director of Real Estate Services to negotiate and execute a Lease of 5,847 square feet, and an Option to Renew the 5,847 sq. ft. Lease plus the City's existing 36,173 sq. ft. Sublease, for a combined 42,020 square foot Renewal Lease at 814 Richards Street, for civic offices.

Expiry of the Lease coincides with the expiry of the City's existing Sublease. One of the conditions of the Option to Renew is for the City as Tenant to renew both the Lease and the Sublease together as one Renewal Lease directly with the Landlord.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

Vancouver City Council on November 1, 2013 (RTS 9886) approved a seven (7) year and nine (9) months Sublease between the Sub-Landlord and the City of Vancouver (the "Sub-Tenant") for the 36,173 square feet premises located at 814 Richard Street.

The Director of Real Estate Services, Associate Directors of Real Estate Services, or the Supervisor of Property Negotiations can execute License Agreements, Month to Month Lease, Offers to Lease, and Leases (the "Commercial Lease"), where the City is either the lessor or lessee, or licensor or licensee, where the total rental or licensee fee value is less than \$750,000 and the term (including renewal options) is no more than ten (10) years.

The General Manager of Real Estate and Facilities Management or the Director of Finance can approve the material terms of each Commercial Lease, which in cases where the City is the licensee or lessee, may include a commercial reasonable indemnity in favour of the licensor or lessor.

Total rental value of the Lease and Sublease together, to be renewed collectively as one Renewal Lease, exceeds \$750,000, and is therefore being submitted to Council for approval.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The General Manager of Real Estate and Facilities Management recommends approval of the foregoing.

REPORT

Background/Context

The Landlord is the owner of the four storey building located at 814 Richards Street (the “Building”). In 2011, the Landlord leased 36,173 square feet of space in the Building to the Sublandlord. In 2013, the Sublandlord subleased the 36,173 square feet (the “Subleased Premises”) to the City of Vancouver as Tenant, for seven (7) years and nine (9) months (the “Sublease”). The Sublease Premises accommodate the Information Technology Department. In 2018, the Landlord offered to lease the remaining fourth floor in the Building, comprising the 5,847 square foot Premises directly to the Tenant for two years and four months (the “Lease”), including an Option to Renew. The Lease expiry is to coincide with the Sublease expiry. One of the conditions of the Lease’s Option to Renew is that the Tenant renews both the Lease and the Sublease together as one Renewal Lease for the entire 42,020 square feet, directly with the Landlord in 2021.

With continuing growth and expansion of the Information Technology Department, staff saw this as an opportunity to obtain additional space and to secure a five year renewal term upon expiry of the Lease and the Sublease.

Strategic Analysis

s.17(1)



The 36,173 square feet Sublease premises will expire on July 31, 2021. The Landlord has agreed to set the 5,847 square feet Lease to expire on the same day as the Sublease, to allow for both leases totalling 42,020 square feet to be renewed as one Renewal Lease starting August 1, 2021.

Implications/Related Issues/Risk (if applicable)

Financial

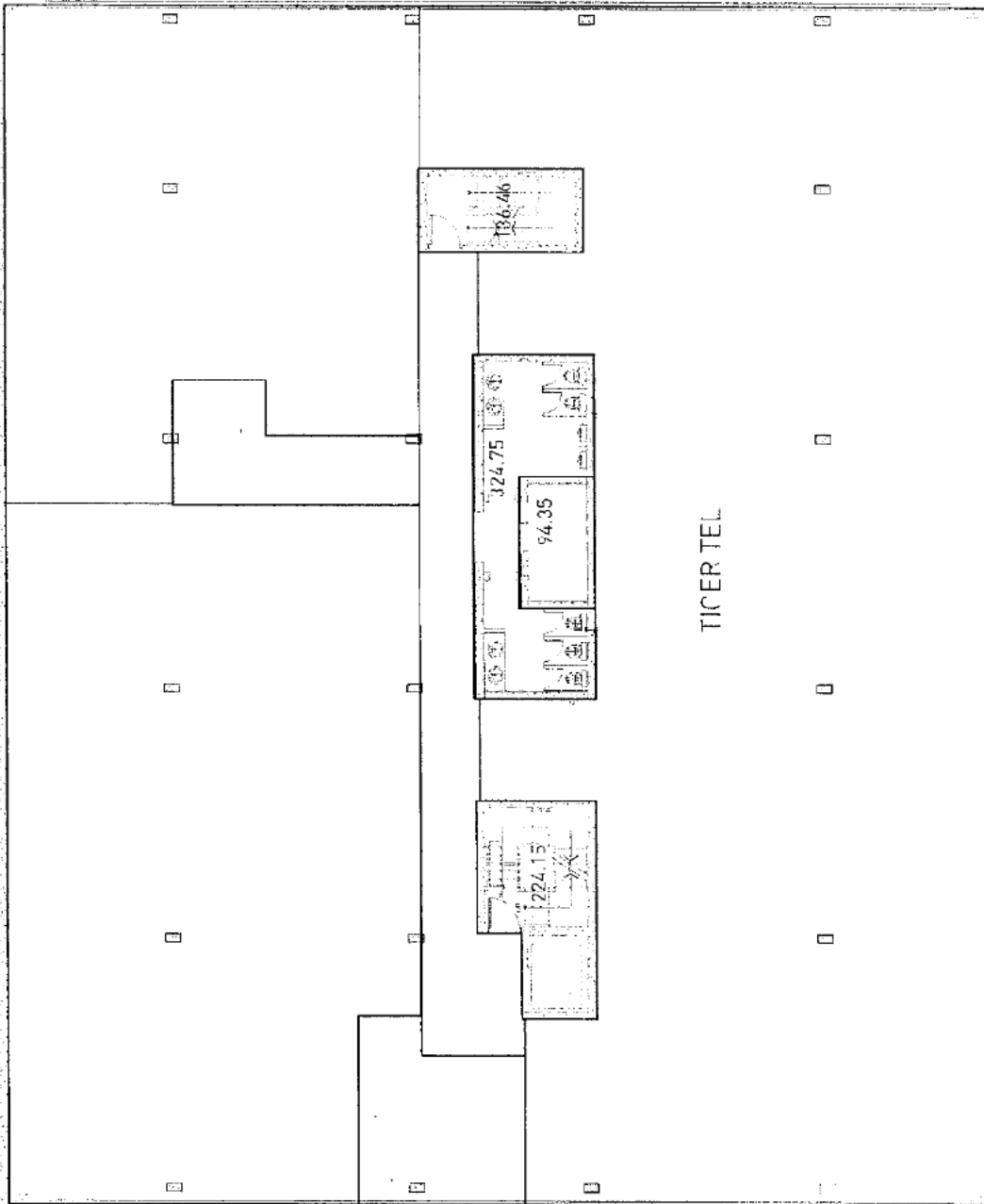
The Lease of 5,847 square feet for the two-year and four months Term has a total rental value of s.17(1) plus GST, and will be funded from Real Estate and Facilities Management's Annual Operating Budget. Tenant improvements and furnishings of up to s.17(1) will be funded from the 2019 Capital project budget for Office Workspace expansion.

CONCLUSION

The Director of Real Estate Services is of the opinion that the rents negotiated for the Lease are representative of current market rental value for the type, location and age of the Premises; the Option to Renew negotiated for the entirety of the Building at 814 Richards Street secures the Information Technology Department's tenure at this location within an extremely tight office market and therefore, the Director of Real Estate Services recommends approval of the foregoing.

* * * * *

Premises



4th Floor

Renewal Lease Premises



