

Memo



Date: January 6, 2010
File: 0870-20
To: City Manager
From: Director, Real Estate & Building Services
Subject: Youth and Family Services Lease Amendment and Extension
Prepared by: Ron Forbes, Property Manager

Recommendation:

THAT Council approve the City entering into a renewal of a commercial lease in the form attached to the Report of the Director of Real Estate & Building Services, dated January 6, 2010, between the City of Kelowna and Terra Landscaping and Bobcat Services Ltd. for Unit 100 - 260 Harvey Avenue on behalf of Kelowna Youth and Family Services, for a term of five (5) years from December 1, 2009 to November 30, 2014;

AND FURTHER THAT the Mayor and City Clerk be authorized to sign the lease based on the attached business terms.

Background:

Kelowna Youth and Family Services is a City funded program currently managed by the Human Resources department of the City and previously by the RCMP. The agency provides preventative counseling service for parents, children and/or youth up to 17 years; assistance to parents experiencing difficulties with child behaviour in family, community or involvement with the law; improving relationships, communication and parenting skills.

The landlord has offered a lease amendment and extension that extends the terms for five (5) years with an increase in rent to market value of \$15 per square foot plus triple net costs.

Base Terms of lease for the Kelowna Youth and Family Services is:

Term: Five (5) years - December 1, 2009 - November 30, 2014
Renewal: Five (5) years at market rate.
Rate: \$20.40 per square foot per annum \$3,129.70 / month
Tenant Improvements: By tenant

A handwritten signature in black ink, appearing to be the initials "M" followed by a flourish.

Internal Circulation:

Director, Financial Services
Director, Human Resources

Considerations not applicable to this report:

Legal/statutory Procedural Requirements:

Legal/Statutory Authority:

Financial/Budgetary Considerations:

Existing Policy:

Personnel Implications:

Technical Requirements:

External Agency/Public Comments:

Communications Considerations:

In light of the above, the Real Estate & Building Services department requests Council's support of this matter.

Submitted by:

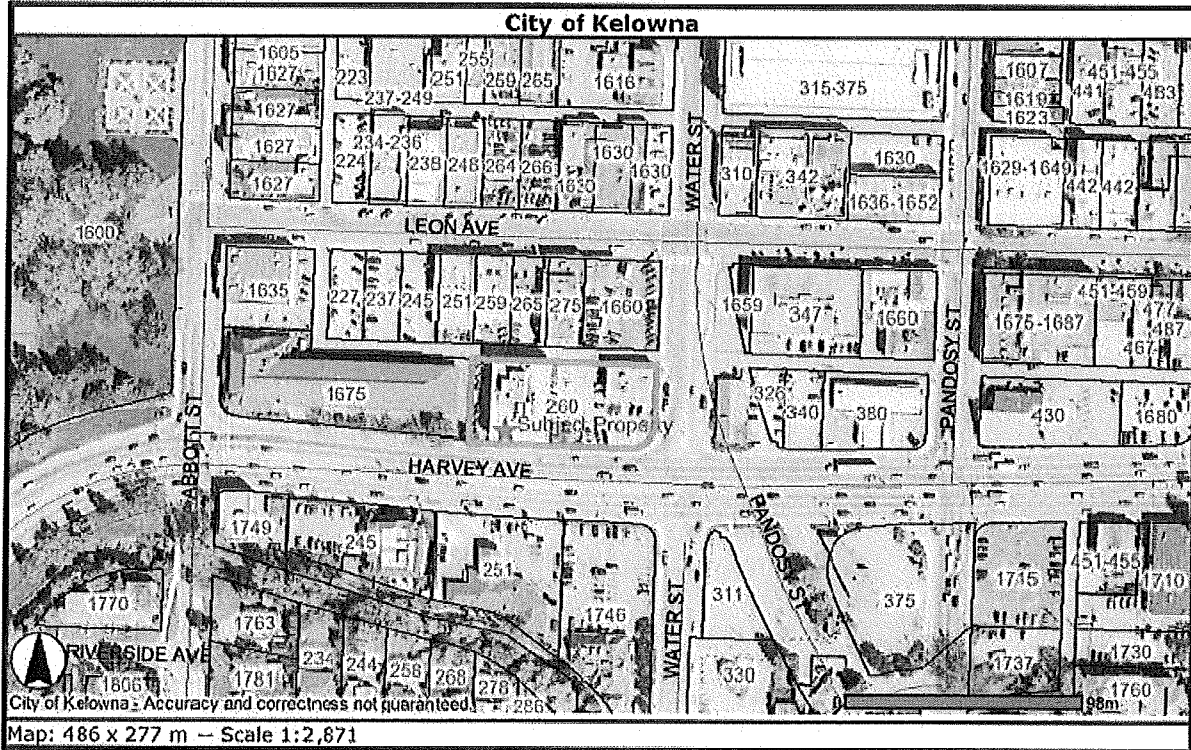


Doug Gilchrist, PMP, RI(BC)
Director, Real Estate & Building Services

Approved for inclusion:



John Vos, General Manager, Community Services



This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

CLIENT ADVISORY SERVICES

October 30, 2009

CITY OF KELOWNA
1435 Water Street
Kelowna, BC
V1Y 1J4

City of Kelowna

NOV 23 2009

Real Estate & Building
ServicesAttention: Ron Forbes, Facilities Manager

Dear Ron:

Re: Lease commencing on June 1, 1994, as subsequently transferred and amended and now expiring November 30, 2009, between TERRA LANDSCAPING AND BOBCAT SERVICES LTD. (the "Landlord") and the CITY OF KELOWNA (the "Tenant") for premises at Unit #100 – 260 Harvey Avenue, Kelowna, B.C.

On behalf of the Landlord, we are pleased to submit the following proposal to amend and extend the above noted lease, as amended, (the "Lease"), for 1,317 rentable square feet of ground floor space at Unit #100 of the Commerce Centre Building located at 260 Harvey Avenue (the "Leased Premises").

Please note that DTZ Barnicke Kelowna is not permitted to contract in any way on behalf of the Landlord or the Tenant. Any agreement arising from these discussions shall not be binding unless executed by authorized signatories of all principal parties.

All terms and conditions of the Lease shall remain the same, save and except for the following:

1. EXTENDED TERM

The Term of the Lease for the Leased Premises shall be extended for a further period of five (5) years commencing on December 1, 2009 and expiring on November 30, 2014 (the "Extended Term").

2. BASE RENT

The Base Rent payable by the Tenant in respect of the Premises shall be \$15.00 per square foot of the Rentable Area per annum for the five year Extended Term (the "Base Rent"). Rents are payable monthly on the first day of each and every month during the Term.

3. ADDITIONAL RENT

The Tenant shall continue to pay its Proportionate Share of Operating Costs and Taxes during the Extended Term in accordance with the Lease.

DTZ BARNICKE KELOWNA - CLIENT ADVISORY SERVICES

#115 – 1690 Water Street, Kelowna, BC, V1Y 8T8

Phone: (250) 808-6877 Fax: (778) 478-9691

Web: www.dtzbarnicke.com email: dtzbarnicke@shaw.ca or murray.wills@dtzbarnicke.com

Kelowna Branch of DTZ Barnicke Vancouver Limited

4. LEASE AMENDING AGREEMENT

This Lease Amending Agreement shall represent an amended agreement, implementing the terms of this Proposal and any further amendments as may be requested by the Tenant's solicitor and agreed to by the Landlord's Solicitor, both parties acting reasonably. No other instrument shall be required. All capitalized terms not otherwise defined in this Proposal will have the meaning ascribed to them in the Lease. All terms and conditions of the Lease shall remain in full force and effect, unchanged and unmodified, except in accordance with this Proposal.

5. OPTION TO EXTEND THE TERM

Provided that the Tenant is not in default under any of the terms of the Lease, the Tenant shall have only one further option of extending the Term of the Lease for an additional period of up to five (5) years (the "Extended Term") by notice in writing given to the Landlord six (6) months prior to the expiry of the Extended Term, on the same terms and conditions as set forth in the Lease, save and except for this right of extension and except that the Net Rent reserved during the Extended Term shall be the market rate for the Leased Premises.

The "market rate" referred to above shall be the annual net rental rate for comparable space in comparable buildings in the area as of the date upon which the Tenant provides the foregoing notice to the Landlord, having regard to rents then, or as near as possible thereto, being contracted to be paid, under leases of similar premises to the Leased Premises in the area, by tenants with a covenant similar to that of the Tenant for terms similar to the Extended Term. If the Landlord and the Tenant cannot agree on the said market rent within ninety (90) days of the Landlord's receipt of the Tenant's written notice, then the said market rent shall be determined in accordance with the provisions of the *Arbitration Act*.

6. RIGHT TO EARLY TERMINATION

Provided that the Tenant is not in default under any of the terms of the Lease, the Tenant shall have a one time only option to terminate this Lease with three (3) months written notice to the Landlord. To be effective, written notice must be received by the Landlord after the first day of the 36th month and before the last day of the 36th month of the Lease term with termination of the lease being effective at the end of the 39th month. For clarity, if the Tenant elects to terminate and proper notice is received by the Landlord, the effective date of termination would be the last day of February 2013.

7. INDUCEMENTS AND OTHER CONSIDERATION

Any inducements, free rent, Landlord's work or any other consideration included in the original Lease Agreement or any subsequent lease extension shall not form part of this proposal.

8. ACCEPTANCE BY TENANT NOT TO BE DELAYED

Subject to the approval of the City Council, the Tenant covenants to provide acceptance within a reasonable period of time and not to unnecessarily or unreasonably delay, putting the Tenant in an overholding situation, as defined in the Lease. If the Tenant overholds for three months past the expiry of the Lease, the Landlord shall have the right to market the space, secure another tenant and provide the City with notice of termination effective 30 days from date of notice.

9. DEMOLITION CLAUSE

The Landlord shall not demolish the building during the original term of the lease. Thereafter, in the event the Landlord determines to demolish the Building at that time has intention to actually complete the demolition within eighteen (18) months, the landlord shall provide the Tenant with not less than one (1) year written notice. The Landlord shall then complete the demolition as soon as is reasonably possible after the expiry of the notice period. The Tenant shall have one time only Right of First Refusal on new premises in the new building prior to space being offered for lease to anyone who is not then a Tenant in the building prior to the demolition. Terms and lease rates shall be based on fair market rates at the time the new building is substantially completed.

Please acknowledge your acceptance of the above terms and conditions by signing in the space provided below and return a copy to the attention of Murray Wills, by email or fax at (778) 478-9691.

Yours truly,

DTZ BARNICKE KELOWNA



Murray Wills
Managing Broker

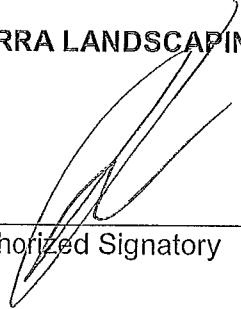
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Kelowna Branch of DTZ Barnicke Vancouver Limited

I/We accept the terms and conditions of the Lease Extension as outlined herein.

Dated this ^{23rd} ~~2nd~~ day of November, 2009.

TERRA LANDSCAPING AND BOBCAT SERVICES LTD. (Landlord)



Authorized Signatory

Dated this ~~23rd~~ day of NOV., 2009.

CITY OF KELOWNA

Authorized Signatory

Authorized Signatory