

**Subject: Request to Waive Leasing Policy for LRT Retail Spaces**

**File Number: ACS2023-PRE-CRO-0024**

**Report to Finance and Corporate Services Committee on 3 October 2023**

**and Council 11 October 2023**

**Submitted on September 19, 2023 by Peter Radke, Director, Corporate Real Estate Office, Planning, Real Estate and Economic Development Department**

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**City Wide**

**Objet: Demande de renonciation de la Politique sur la location à bail pour les espaces de vente au détail**

**Dossier : ACS2023-PRE-CRO-0024**

**Rapport au Comité des finances et des services organisationnels**

**le 3 octobre 2023**

**et au Conseil le 11 octobre 2023**

**Soumis le 19 septembre 2023 par Peter Radke, Directeur, Bureau des biens immobiliers municipal, Services de la planification, des biens immobiliers et du développement économique**

**Personne ressource: Angela Gatto, Conseillère en affaires immobilières II, Direction générale de la planification, de l'immobilier et du développement économique**

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**Quartier: À l'échelle de la ville**

## **REPORT RECOMMENDATION(S)**

**That the Finance and Corporate Services Committee recommends that City Council:**

- 1. Waive the section of the City's Leasing Policy that that requires public notice of City leasable space; and**
- 2. Delegate Authority to the Director, Corporate Real Estate Office, to enter into, conclude, execute, amend, and implement on behalf of the City, an Agreement for the Happy Goat Coffee Company to have a first right of refusal for five future commercial/retail spaces to be located within the Stage 2 O-Train stations, as outlined further in this report.**

## **RECOMMANDATION(S) DU RAPPORT**

**Que le Comité des finances et des services organisationnels recommande au Conseil municipal :**

- 1. de renoncer à l'article de la Politique municipale sur la location à bail qui exige un avis public pour les surfaces locatives de la Ville; et**
- 2. de déléguer au directeur, Bureau des biens immobiliers municipaux, le pouvoir de pouvoir de conclure, de signer, de modifier et de mettre en œuvre, au nom de la Ville, un accord donnant à Happy Goat Coffee Company le droit de premier refus pour cinq futurs espaces commerciaux/de vente au détail qui seront aménagés dans les stations de l'Étape 2 de l'O-Train, comme indiqué dans le présent rapport.**

## **BACKGROUND**

In May of 2019, the Corporate Real Estate Office (CREO) and the Transit Services Department (TSD), known as the Transportation Services Department at the time, prepared a Request for Submissions (RFS) to seek, receive, and review proposals from commercial entities interested in leasing four purpose-built retail spaces located within the four O-Train Line 1 stations (Tunney's Pasture, Hurdman, Rideau, and Blair). The RFS stated the City of Ottawa would entertain various uses in the premises that would improve upon the transit customer experience. The successful proponent would need to comply with the Design and Development Standards for Retail Commercial and Non-Commercial Uses prepared by TSD and meet the Seven Core Principles as detailed in the discussion.

The highest rank proposal received was from Happy Goat Coffee Company (Happy Goat), based on various evaluation criteria. As the preferred bid, the City engaged in

lease negotiations with Happy Goat and this resulted in a five-year lease (with an additional five-year renewal option) that was signed and executed on October 1, 2019, under delegated authority (report number DEL2018-CREO-0183).

Happy Goat's RFS business case and investment strategy was based on pre-Covid ridership growth models, which was deemed to be an attractive business opportunity for commercial retail investors.

The arrival of COVID-19 in March 2020, followed by the shift to remote working significantly reduced transit ridership. Additionally, ridership for the Confederation Line was also affected during major service disruptions in 2021 and 2023. Between March 2020 and today, Happy Goat has never reached its sales targets. To date, Happy Goat has invested significant funds into the capital fit-up of these retail spaces within the four stations. Additional funds are anticipated for the remaining fit-up (excluding additional soft costs already incurred). Currently, the Happy Goat locations at Blair and Rideau Stations have fully opened; however, Tunney's and Hurdman Stations have not opened.

As an interim measure, related to COVID relief, CREO abated rents in the existing lease which temporarily reduced Happy Goats originally agreed rent to recognize the hardships.

Given the new market conditions revolving around continued reduced ridership levels and hybrid work arrangements, CREO intends, through a delegated authority report, to revise the existing lease rent consideration and tie new rents to ridership levels. This revised lease is predicated on Happy Goat receiving a first right of refusal for the new retail locations in Stage 2 O-Train stations to attract new investment interest.

Additionally, hard opening dates of the two remaining stations will be established. Lastly, Rideau Station will be surrendered as business viability has been determined by Happy Goat to be commercially untenable given competition in the vicinity. TSD intends to revisit the use of this retail space for other potential purposes.

## **DISCUSSION**

With the continued O-Train technical issues and reduced ridership, Happy Goat is having difficulty attracting investment and maintaining business viability. The Seven Core Principles, as identified in the RFS process, focuses on enhanced customer service for transit users, and maintaining cost neutrality as further outlined below:

- 1) To generate additional activity at stations in order to enhance the use of transit service and improve customer safety and security.
- 2) To provide convenient on-site amenities for customers and employees so that they can make the best use of their time while traveling on the O-Train network.

- 3) That retail should meet the service needs of the customers but also be supported by the market in a transit environment.
- 4) The store-front retail and commercial tenants be required to provide a committed human presence in stations with an agreed upon level of services and amenities.
- 5) Where applicable, to provide innovative commercial and non-commercial services that support several Term of Council priorities, including economic prosperity, transportation and mobility, healthy and caring communities, and service excellence.
- 6) To align with TSD and City of Ottawa interests and policies; and,
- 7) That retail, commercial, and non-commercial uses will operate on a minimum cost-neutral model, whereby net revenue is not necessarily expected, but the agreements will ensure that there are no additional costs to the city.

In light of maintaining these core principles and to acknowledge the challenges experienced to date by Happy Goat, CREO and TSD propose to offer a first right of refusal for five future commercial/retail spaces to be located within the Stage 2 O-Train stations (namely the Trim, Place d'Orléans, Algonquin, Bayshore, and Lincoln Fields stations).

The City's Leasing Policy requires that public notice be given for any City space that is available for lease. Recommendation 1 of this report requesting City Council to waive that requirement, which would enable the City to enter into an agreement to allow Happy Goat to have a first right of refusal for the retail spaces in Stage 2 O-Train station locations. The intent of this proposal would provide additional investor interest and growth opportunities for Happy Goat while maintaining customer service standards. This first right of refusal would be subject to the Leasing Policy requirements, would not be transferable and would require Happy Goat to negotiate in good faith a new separate lease agreement for these five stations.

CREO staff in consultation with TSD and Legal Services will prepare an agreement to document Happy Goat's first right of refusal for the Stage 2 retail locations. That agreement will have conditions for Happy Goat to meet including deadlines to enter in formal lease agreements with the City and being in good standing with the City as a tenant.

## **FINANCIAL IMPLICATIONS**

There are no direct financial implications.

## **LEGAL IMPLICATIONS**

There are no legal impediments to adopting the recommendations in this report. Council has the authority to waive the requirement to post public notice when City owned space becomes available set out in the City's leasing policy and to grant a first right of refusal pursuant to the broad authority to administer the City's property conferred by the *Municipal Act, 2001*. In determining its approach, the City should assess the balance of risk and advantages between the City and Happy Goat associated with implementing the recommendations in this report, and whether it is in the City's interest to do so.

## **COMMENTS BY THE WARD COUNCILLOR(S)**

Councillor Johnson is aware of the recommendations associated with this report.

Councillor Luloff provided the following comments:

Happy Goat is a great local business and has been a sought-after company here in Orléans. I wholeheartedly endorse the city's recommended approach and should Happy Goat refuse, I'd prefer local companies be given preference moving forward.

## **CONSULTATION**

No public consultation was undertaken. CREO consulted with TSD on these recommendations and concurrence has been provided.

## **ACCESSIBILITY IMPACTS**

Pursuant to the Design and Development Standards for Retail Commercial and Non-Commercial Uses, the retail spaces are to be designed for accessibility for persons with disabilities in accordance with the Universal Design principles

## **ASSET MANAGEMENT IMPLICATIONS**

There are no Asset Management implications resulting from the recommendations in this report.

## **CLIMATE IMPLICATIONS**

There are no climate implications resulting from the recommendations in this report.

**ECONOMIC IMPLICATIONS**

N/A

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications resulting from the recommendations in this report.

**INDIGENOUS GENDER AND EQUITY IMPLICATIONS**

There are no Indigenous Gender or Equity implications resulting from the recommendations in this report.

**RISK MANAGEMENT IMPLICATIONS**

Risk implications have been outlined and explained in the report and are being managed by CREO and TSD staff.

**RURAL IMPLICATIONS**

There are no rural implications resulting from the recommendations in this report.

**TECHNOLOGY IMPLICATIONS**

There are no technological implications resulting from the recommendations in this report.

**TERM OF COUNCIL PRIORITIES**

There are no Term of Council Priorities associated with the report recommendations.

**DISPOSITION**

Upon Council approval of this report, CREO will arrange for the first right of refusal agreement draft and execution.