

Report to/Rapport au :

Finance and Economic Development Committee
Comité des finances et du développement économique

and Council / et au Conseil

October 2, 2012
2 octobre 2012

Submitted by/Soumis par: Nancy Schepers, Deputy City Manager/Directrice municipale adjointe, Planning and Infrastructure / Urbanisme et Infrastructure

Contact Person / Personne ressource: Gordon MacNair, Director, Real Estate Partnerships and Development Office/ Directeur, Bureau de développement et de partenariats immobiliers
613-580-2424 x 21217, gordon.macnair@ottawa.ca

RIDEAU-VANIER (12)

Ref N°: ACS2012-PAI-REP-0021

SUBJECT: LEASE - RIVERAIN PARK – OTHER PROPERTIES - NATIONAL CAPITAL COMMISSION

OBJET : BAIL – PARC RIVERAIN – AUTRE PROPRIÉTÉS – COMMISSION DE LA CAPITALE NATIONALE

REPORT RECOMMENDATIONS

That the Finance and Economic Development Committee recommend that Council approve a lease between the City of Ottawa and the National Capital Commission (NCC) for the property at 400 North River Road, known as Riverain Park, for a forty-nine (49) year term at a rental rate for the term of \$1, and that in kind services (maintenance) on various NCC properties in the amount of \$370,000 per annum be performed to reflect the current market lease value of the Riverain Park property.

RECOMMANDATIONS DU RAPPORT

Que le Comité des finances et du développement économique recommande au Conseil d'approuver un bail conclu entre la Ville d'Ottawa et la Commission de la capitale nationale (CCN), relativement à la propriété située au 400, chemin North River, et connue sous le nom de parc Riverain, pour une période de quarante-neuf (49) ans et moyennant un loyer de 1 \$ pour la durée du bail et que des services non financiers (entretien) soient fournis sur diverses propriétés de la CCN pour l'équivalent d'un montant de 370 000 \$ par année, afin de tenir compte de la valeur locative actuelle du terrain du parc Riverain.

BACKGROUND

In January 1968 the former Corporation of the City of Eastview which became the City of Vanier and now the City of Ottawa entered into a lease with the National Capital Commission (NCC) for 10.46 acres of land located on North River Road to be known as Riverain Park (Park). The park includes two (2) public tennis courts, two (2) ball diamonds, a basketball court, play structures and horseshoe pits.

The lease was for consideration of one (1) dollar and for a twenty-one (21) year term that ended on 31 December 1989. The lease contained a renewal clause allowing the City to renew for a further twenty-one (21) year term, to 31 December 2010. Thereafter pursuant to the terms of the Lease, the City remained as an over holding tenant.

The lease could be terminated by either party by providing six (6) months written notice to the other. The City received a Notice of Termination from the NCC dated 27 June 2012 that advises the City must enter into a new lease or vacate the lands as of 31 December 2012.

DISCUSSION

Discussions between the Real Estate Partnerships and Development Office (REPDO) and Parks, Recreation and Culture (PRC) have concluded that the Park is of importance to the community and the City. As a result, it is recommended that a new lease should be negotiated with the NCC.

During the term of the original lease and during the over holding term, the City has programmed and maintained the Park and continues to do so to this day.

Discussions with the NCC have resulted in a new lease proposal that, if approved, would have a forty-nine (49) year term. The rationale for a long-term lease is based on Riverain Park being a core park for the residents of Vanier. Furthermore, the current park infrastructure at this location supports a long-term lease. The NCC proposed an annual rent of \$370,000 for the Park. An independent appraisal commissioned by the City confirmed that the land lease rate proposed is within the current market value range.

The consideration is \$370,000 for the term in recognition of in kind services (maintenance) to be performed by the City on various NCC properties, as described below, for the term of the lease. In essence, the City shall perform these services on NCC properties in exchange for the reduction in the annual rent to one (\$1) dollar for Riverain Park.

As opposed to paying annual rent, the City and the NCC explored the option of having the City take over a number of maintenance contracts of various NCC owned lands. The advantage to the City is that this would provide an opportunity to create some efficiencies by incorporating the maintenance agreements with other City contracts.

The proposal is that the City would take over maintenance responsibilities, for the following properties:

- River Road Park;
- Hampton Park and Dog Park;
- Stanley Avenue Park, Vanier Arterial lands and Dog Park;
- Kingsview Park;
- King Edward Park;
- Kitchissippi Parking Lot;
- Blair Road Boat Launch;
- Atlantis Avenue Service Depot lands;
- Conroy Pit, Dog Park and Toboggan Run;
- Bruce Pit, Dog Park and Toboggan Run;
- Rockcliffe/Hillside, Dog Park; and
- Industrial Road Interchange.

Other maintenance responsibilities include:

- Pavement Line Markings on about 30 km of NCC parkways and bridges;
- Street lighting about 400 light standards on NCC parkways and bridges;
- Traffic Signals 10 locations on parkways;
- Champlain Bridge lane designation signals; and
- On Street Segregated Bike Lane, Wellington Street.

The NCC presently maintains the above-noted facilities through contracted services.

The City maintains a much larger network of parks, signals / streetlights and roads and generally has maintenance crews in the immediate vicinity that can be leveraged for this work. Also the NCC presently contracts directly to the City for maintenance of traffic signals. Meetings with the NCC and City staff to define service levels and other maintenance details have determined that the City is able to assume the maintenance activities for the value of the lease cost of the Park. It is important to note that lifecycle responsibilities and costs are not included in the assumption of maintenance activities.

A separate maintenance agreement will be entered into between the City and the NCC for these properties and responsibilities.

While the City will be maintaining these properties, the NCC, as owner, will continue to be responsible for all lifecycle costs and security relating to these properties. As well, all parks assumed under the maintenance agreement will continue to be governed by the rules and regulations applicable to NCC properties and Riverain Park will continue to be governed by City bylaws and policies.

The City will continue to program and maintain the Park. In 2011, the Park accommodated 481.5 hours of ball diamond rentals, 205 hours of tennis court bookings, 85 hours of horseshoe bookings, and 51 hours of bookings for community events. These bookings amounted to revenue to Parks, Recreation and Culture of \$15,103.25 in 2011.

The Parking Operations and Development Unit (PODU) of Public Works have operated a parking lot at the Park for a number of years and will continue to operate it under the new lease arrangement. In 2009, the revenue generated by the parking lot was \$88,800, in 2010 revenues were \$108,200 and in 2011 they were \$129,800. The annual parking revenues generated from the operation of the Riverain Lot # 20 along with the annual parking revenues from the remaining lots and on-street operations are utilized to fund the annual operating expenditures for the various lots and on-street operation including the balance of the Parking Operations Maintenance and Development Branch (POMD) annual operating program.

Annually Council, through the POMD operating budget, contributes to the Parking Reserve. The Parking Reserve contributions fund the annual and future capital lifecycle/replacement and future parking capital new initiatives as approved by Council, which is supported by the approved Parking Management Strategy.

Both the City and the NCC have agreed upon a term of forty-nine (49) years for the two (2) agreements (Riverain Park lease and the maintenance agreement). The nature of the Riverain agreement reflects the City's long-term commitment to Riverain Park and the recreational and programming attributes provided to the residents in the immediate vicinity as well as to the City as a whole. The lease of Riverain Park is to be considered much like a land exchange by securing a forty-nine (49) year term in exchange for services in kind to be performed by the City in accordance with the maintenance agreement. By mutual consent the City and the NCC have, however, agreed to a mutual termination for convenience provision which could be exercised upon one (1) year's advance written notice by either party to the other.

The NCC will be seeking approval from Treasury Board 1 November 2012.

RURAL IMPLICATIONS

There are no rural implications resulting from the recommendation of this report.

CONSULTATION

The Real Estate Partnerships and Development Office have consulted with Legal Services, Risk Management, Parks, Recreation and Culture, Parks, Buildings, Grounds Operations and Maintenance and Public Works with regard to this lease.

COMMENTS BY THE WARD COUNCILLOR(S)

Ward 12 - Rideau-Vanier Councillor Mathieu Fleury is aware of the report and supports staff recommendation.

LEGAL IMPLICATIONS

There are no legal impediments to implementing the recommendation in this report. However, it should be duly noted that all of the services in kind performed by the City on the additional NCC properties may result in increased exposure to claims under the *Occupier's Liability Act, R.S.O. 1990, Chapter O.2* notwithstanding that the properties are still owned federally. It should also be noted though that many of the duties being performed by the City are the usual maintenance that the City performs on its own properties.

The approval of Council is required as it involves a significant budget commitment as identified in this report over a period of forty-nine (49) years and is beyond the authority currently delegated to staff. Legal Services will work with REPDO and Public Works staff to finalize and execute these agreements identified in this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with the lease aspect of this report.

The risk management implications associated with the provision of in kind services to the NCC on various properties will be in accordance with the Public Works Department's standard operating and maintenance policies and procedures for municipal road allowances and parks.

Risk Management has advised that entering the lease and maintenance agreements in itself will not necessarily increase the municipal liability premiums the City pays but rather a) a catastrophic claim could be made against the City, relating to one of the NCC properties the City is maintaining, that the insurance company and/or the City would have to make payment and/or; b) once the agreements are forwarded to the insurer for review and when the City negotiates its premiums with the insurer, the insurer might deem that additional liability has been taken on by the City by entering these agreements. Either case could cause an increase in premiums paid by the City. We cannot know at this point what any premium increase, if any, may occur as those premiums are negotiated annually between the City and the insurer and are based on many more items than just the addition of these two agreements.

FINANCIAL IMPLICATIONS

The \$370,000 for operating maintenance cost of the in-kind-service for the various NCC properties are representative of the assumed market value lease cost for Riverain Park, for which the NCC will lease to the City for \$1 in lieu of the City taking over the maintenance costs.

The 2013 Operating Budget submissions for Public Works and the Parks, Recreation and Culture Departments will be adjusted to reflect these amounts.

ACCESSIBILITY IMPACTS

Riverain Park is currently built to City standards regarding accessibility. Should any changes, construction, replacements occur in the Park all projects will consider the appropriate accessibility standards.

ENVIRONMENTAL IMPLICATIONS

Any environmental implications relating to Riverain Park and/or the various NCC properties the City will be maintaining will remain with the NCC as property owner.

TECHNOLOGY IMPLICATIONS

There are no direct technical implications associated with this report.

TERM OF COUNCIL PRIORITIES

This lease supports the Healthy and Caring Communities term of Council priority, specifically HC2; to improve parks and recreation. It will help achieve the 2011 to 2014 Term of Council Priorities by allowing the continued benefit of green space and park features for the betterment of the community and the City as a whole.

SUPPORTING DOCUMENTATION

There is no supporting documentation appended to this report.

DISPOSITION

Subject to approval by City Council, the following actions will occur:

- REPDO and Legal Services will finalize the lease documentation with the NCC;
- A maintenance agreement will be developed with the assistance of Legal Services and the Public Works Department and will incorporate the aforementioned maintenance responsibilities into future work plans; and
- The Public Works Department will be recovering \$370,000 in operating costs as a charge back to the Parks, Recreation and Cultural Services (PRCS) Department. This agreement is in lieu of lease payments being made to the NCC.