

REPORT

Date Presented: November 19, 2013

To: Mayor and Members of Council

From: Jim Connell, Director of Protective Services / CBO

Subject: **Lease Agreement – The Table Community Food Centre – 1881 Rogers Road (former Police Jail Cell Facility)**

For Information Only ☐ Delegation ☐ Presentation ☐ Attachment ☒

Recommendation:

BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF PERTH PASS BY-LAW 43XX, BEING A BY-LAW TO AUTHORIZE THE MAYOR AND CLERK TO COMPLETE A LEASE AGREEMENT WITH THE TABLE COMMUNITY FOOD CENTRE, FOR A PERIOD OF ONE (1) YEAR, COMMENCING NOVEMBER 20TH, 2013, FOR SPACE LOCATED AT 1881 ROGERS ROAD, TO BE UTILIZED FOR THE STORAGE OF FOOD PRODUCTS, AS PRESENTED IN REPORT 2013-COUNCIL-15.1.

Executive Summary:

This report requests that Council authorize the Mayor and Clerk to complete a Lease Agreement with the Table Community Food Centre for the lease of the former police jail cells located at 1881 Rogers Road. This Lease will be for a one (1) year period, with an option to renew on a year-to-year basis, subject to the municipality not requiring the space for future business opportunities.

Strategic Plan Comments:

Sector 1 – Economy: Strategic Initiative (SI) #6 – Strategize on how to best position the Perth Business/Industrial Park to meet the needs of the Industrial /Commercial /Institutional (ICI) Sector.

Background/Discussion:

The Committee of the Whole discussed The Table Community Food Centre's request for food storage space at 1881 Rogers Road and directed staff to explore space options.

An onsite meeting was held on November 13th, 2013 between the Table Community Food Centre and the Town of Perth resulting in the following proposal:

The proposed Lease Agreement is for approximately 1,100 sq. ft., of space which is commonly referred to as the former police jail cell facility.

- The lease is proposed to commence November 20th, 2013 and extend for a one (1) year trial period.
- The agreement may be terminated with three (3) month notice by either party.
- At the end of the term there is an option to renew the lease on a year-to-year basis, until such time the Town requires the space for future business opportunities.
- All utility costs shall be funded by the Town of Perth.
- The Lease shall be struck at a gross cost of \$2.00/year.
- In lieu of rent and utility costs, The Table Community Food Centre shall acknowledge the Town of Perth's charitable donation by means of helping the Town at a future community event.
- The facility has an institutional zoning, and a food bank is a complimentary use.
- Please see the attached Schedule 'A' for the specific allocation of space to the Table Community Food Centre under this proposed Lease Agreement.

Options:

Option 1: Recommended: Pass By-law 43xx, being a By-law to authorize the Mayor and Clerk to complete a Lease Agreement with The Table Community Food Centre, for a period of one (1) year, commencing November 20th, 2013, for space located at 1881 Rogers Road, to be utilized for the storage of food products.

Option 3: Not Recommended Status quo. Do nothing.

Financial Considerations:

Council's act of leasing the old jail cell space at 1881 Rogers Road is essentially a community donation designed to support The Table Community Food Centre and its ongoing operation.

Applicable Policy/Legislation:

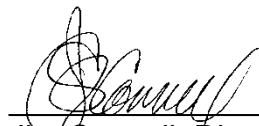
None.

Others Consulted:

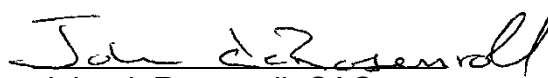
Nancy Wildgoose, Executive Director of The Table Community Food Centre.

Respectfully submitted,

Approved by,



Jim Connell, Director of Protective Services / CBO



John deRosenroll, CAO

THE CORPORATION OF THE TOWN OF PERTH

BY-LAW NO. 43xx

Being a By-law to authorize the Mayor and Clerk to complete a Lease Agreement with The Table Community Food Centre for a period of one (1) year.

Recitals:

1. *The Municipal Act* as amended, states that by-laws may be passed for the purpose of entering into agreements.
2. The Council of the Town of Perth reviewed Report 2013-Council-15.1, and concurs with the staff recommendation to complete a Lease Agreement with The Table Community Food Centre for a period of one (1) year, commencing November 20th, 2013.
3. Council for The Corporation of the Town of Perth deems it advisable to pass this By-law.

Accordingly, the Council of The Corporation of the Town of Perth enacts as follows:

1. AUTHORIZATION

- 1.1. That the Mayor and Clerk be authorized to complete an Agreement with complete a Lease Agreement with The Table Community Food Centre for a period of one (1) year, commencing November 20th, 2013.

2. SCHEDULES:

- 2.1. Attached to and forming part of this By-law, is the Agreement with The Table Community Food Centre, marked as Schedule "A".

3. EFFECTIVE DATE:

- 3.1. This By-law shall come into force and effect on the date it is passed by Council.

Read a first, second and third time and finally passed this XX day of XXX, 2013.

John Fenik, Mayor

John deRosenroll, Deputy Clerk

(Seal)

THIS AGREEMENT made in duplicate and entered into this 20th day of November, 2013

B E T W E E N:

The Table Community Food Centre

hereinafter called the "TABLE"

A N D

Corporation of the Town of Perth

hereinafter called the "LESSOR"

WHEREAS the Table will be occupying those portions of the Lessor's lands and premises as more particularly shown outlined in red on Schedule "A" attached; bearing civic address 1881 Rogers Road, Perth, Ontario (hereinafter called the facility)

AND WHEREAS the Lessor has agreed to the occupation of said lands and premises and warrants that it is the owner of said lands and premises with full authority to enter into this Agreement;

AND WHEREAS the parties wish to enumerate their respective rights and obligations arising hereunder;

PREMISES AND TERM

1. In consideration of the rents and covenants contained herein and hereby accepted by the Table, the Lessor hereby leases to the Table for a term of one (1) year from and including the twentieth (20th) day of November 2013, up to and including the thirtieth (30th) day of November 2014, the area outlined and shown in green on the plan attached hereto as Schedule A. The parties also acknowledge that the leased space has an area of approximately 1100 square feet.
2. The Lease may be renewed on a year-to-year basis, subject to both parties being satisfied with the Tables use of the facility in the previous year's period. The Table recognizes that should the Town of Perth require this space for future business purposes, it shall have the right to give The Table Community Food Centre ninety (90) days written notice to vacate the facility.

RENT

1. The Table shall pay to the Lessor on the twentieth (20th) day of November 2013, the sum of \$2.00 for the term. The Table may not assign, sublet or part with possession of the facility or any part thereof without the prior written consent of the Lessor.

LESSOR SERVICES AND LEASEHOLD IMPROVEMENTS

1. The Lessor shall provide the following services to the facility at its expense:
 - a) Snow plowing and snow removal;
 - b) Grass cutting;
 - c) All utilities, including water;
 - d) Parking - 2 spaces
 - e) Other access: The Table will have the right to access the facility by entering door number 333.1 garage port. The garage port shall be used for municipal purposes, designed to accommodate the Tables entrance requirements.
1. The Table undertakes and agrees not to make any improvements or additions to the facility without prior written consent of the Lessor. The Table agrees that any signage relating to the use of the space requires approval of the Lessor and, in the case of signage outside the building, an appropriate permit under the Sign By-law of the Town of Perth
2. Any services or leasehold improvements that have not been identified above are at the Table's expense.
3. In the event circumstances arise where it is not financially prudent for the Lessor to fulfill its service

and leasehold improvement obligations set out herein, the Lessor reserves the right to modify those obligations and would do so in such a way as to avoid disruption to the Table's use of the facility. The Table may elect to accept the modified obligations or shall give its notice to terminate this lease under the termination provisions set out herein.

INSURANCE

1. The Table shall provide the Lessor with a Certificate of General Liability Insurance covering the Table with respect to its use and occupation of the Premises in an amount of not less than \$2,000,000 for the duration of the Agreement and the Certificate shall list the CGI Limits of Liability.
2. Coverage shall be issued on an occurrence basis to cover any negligent acts or omissions by the Table relating to its operations and its obligations under this Agreement. Such insurance shall include, but is not limited to bodily injury and property damage including loss of use; personal injury; contractual liability; premises, property and operations; non-owned automobile; broad form property damage; owners and contractors protective; occurrence property damage; products and completed operations; employees/volunteers as Additional Insured(s); contingent employers liability; tenant legal liability; cross liability and severability of interest clause.
3. Such insurance shall add the Lessor as Additional Insured with respect to the operations of the Table. This insurance shall be non-contributing with and apply as primary and not as excess of any insurance available to the Lessor.
4. The Policy shall include a thirty (30) day notice of cancellation clause. The insurance policy will be in a form and with a company which are, in all respects, acceptable to the Lessor.
5. The Certificate will show the name of the insurer, the expiry date of cover, the reason for the Certificate's issuance (reference use of the Premises for Table's use).

INDEMNITY

1. The Lessor shall not be responsible for and the Table hereby indemnifies and shall hold the Lessor harmless from and against any and all liabilities, suits, actions, proceedings, claims, causes, damages, judgments or costs whatsoever (including all costs of defending such claims) arising out of; incidental to, or in connection with any injury or damage to person or property of every nature and kind (including death resulting there from), occasioned by any act or omission of the Table, its employees, agents, contractors or patrons related to this Agreement and/or the Table's occupancy of the Premises, and against any loss of business that may arise from the upholding the terms and conditions of this agreement by the Lessor, its Officers or appointed agents, save and except in the face of gross negligence and/or a breach of this agreement by the Lessor.
2. The Lessor and Table shall at all times indemnify and save harmless the other from any and all liens, actions, suits, claims damages, costs and demands arising out of their respective operations, activities and responsibilities under this Agreement.

TERMINATION

1. Either of the parties shall have the right to terminate this Agreement for any reason, upon giving ninety (90) days prior written notice.

ACTS OF DEFAULT AND LESSOR'S REMEDIES

1. An Act of Default has occurred when:
 - a) The Table has failed to pay Rent for a period of fifteen (15) consecutive days, from the date that written demand for payment has been made;
 - b) The Table has breached its covenants or failed to perform any of its obligations under this Lease, and;
 - i) The Lessor has given written notice specifying the nature of the default and the steps required to correct it; and

- ii) The Table has failed within thirty (30) days to correct the default as required by the notice
 - c) The Table has:
 - i. Become bankrupt or insolvent or made an assignment for the benefit of creditors;
 - ii. Had substantially all of its property seized or attached in satisfaction of a judgment;
 - iii. Had a receiver appointed as to substantially all of its property;
 - iv. Committed any act or neglected to do anything with the result that a Construction Lien or other encumbrance is registered against the Lessor's property;
 - v. Without the consent of the Lessor, made or entered into an agreement to make a sale of its assets to which the Bulk Sales Act applies out of the ordinary course or to a permitted transferee;
 - vi. Taken action if the Table is a corporation with a view to winding up, dissolution or liquidation; which in each case is not set aside within thirty (30) days of notice from the Lessor.
 - d) Any insurance policy is cancelled or not renewed by reason of the use or occupation of the Premises, or by reason or non-payment of premiums;
 - e) The Premises are used by any other person or persons, or any purpose than as provided for in this Lease without the written consent of the Lessor or as otherwise permitted hereby.
- 2) When an Act of Default on the part of the Table has occurred and all cure periods have expired the Lessor shall have the right to terminate this Lease and to re-enter the Premises and deal with them as it may choose.

DAMAGES TO THE FACILITY

1. If the facility is damaged or destroyed, in whole or in part, by fire or other peril, then the following provisions shall apply:
 - a) If the damage or destruction renders the facility unfit for occupancy and impossible to repair or rebuild using reasonable diligence within 120 clear days from the happening of such damage or destruction, then the term hereby granted shall cease from the date the damage or destruction occurred, and the Table shall immediately surrender the remainder of the term and give possession of the facility to the Lessor and the rent from the time of the surrender shall abate;

GENERAL PROVISIONS

1. The Table agrees that it shall not encumber the Lessor's property and shall not pledge this Agreement as security to obtain financial assistance where such financial assistance would require an encumbrance of the Lessor's property.
2. The Lessor and the Table agree that the Table shall be allowed to operate on holidays, snow days and emergency closing days subject to the following:
 - a. The Table shall be responsible for all additional costs incurred when requesting services on these dates.
 - b. the Table shall be responsible for all costs when requesting contractors' services or routine maintenance on these dates.
3. The Table shall be responsible for any and all claims and causes of action arising out of its operations and activities.
4. The facility will not, during the said term, be at any time used for any other purpose than that of a community food storage centre.
5. The Lessor covenants with the Table for quiet enjoyment.
6. The Table will permit the Lessor to exhibit the facility during the last two months of the term to any prospective tenant.

7. This Agreement shall be binding upon and ensure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns and when the singular and masculine are used, the same shall be construed as meaning the plural and neuter or the feminine when the context or the parties referred to so requires and all references shall be deemed to be joint and several.
8. The Table agrees that it shall not register this Agreement or any notice of this Agreement against the lands and premises.

DELIVERY OF NOTICES

1. Any notice required to be delivered to the Table pursuant to this Agreement shall be by personal service or by pre-paid registered mail, delivered or addressed to the Table at:

The Table Community Food Centre
190 Gore Street East
Perth, Ontario
K7H 1K3

or to the Lessor at :

Corporation of the Town of Perth
80 Gore Street East
Perth ON
K7H 1H9

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED

In the presence of:

The Table Community Food Centre

PER: _____ DATE: _____

PER: _____ DATE: _____

- AND -

The Corporation of the Town of Perth

PER: _____ DATE: _____
John Fenik, Mayor

PER: _____ DATE: _____
Lauren Walton, Clerk (Seal)

