

Thorncliffe Branch Facility – Encroachment Agreement and Lease with City of Toronto

Date:	March 22, 2010
To:	Toronto Public Library Board
From:	City Librarian

SUMMARY

The purpose of this report is to seek Toronto Public Library Board approval to enter into an encroachment agreement with the City of Toronto for twenty years respecting the Thorncliffe Branch facility known municipally as 48 Thorncliffe Park Drive, and to a lease portion of the facility to the City of Toronto for ten years with an option to renew for a further ten years. A shared use facility agreement is also required to outline the rights and obligations of the Library and the City of Toronto.

RECOMMENDATIONS

The City Librarian recommends that the Toronto Public Library Board:

1. enters into an encroachment agreement with the City of Toronto for a period of twenty years respecting the Thorncliffe Branch Facility (“the Facility”) known municipally as 48 Thorncliffe Park Drive, subject to approval by City Council;
2. authorizes a lease to the City of Toronto for certain space within the Facility shown crosshatched on Attachment 1 for a term of ten years with an option to renew for a further ten-year period, subject to approval by City Council; and
3. requests staff to forward this report to the City’s Government Management Committee for City Council approval of the encroachment agreement and lease.

FINANCIAL IMPACT

There is no financial impact for the encroachment agreement.

The Toronto Public Library Board will require the City of Toronto to pay nominal base rent for the 10 year lease and the renewal period.

The shared use facility agreement to be negotiated will allow the Library to charge back to the City its share of annual operating and capital costs allocated thereto based upon the proportion of the area occupied by each party. The estimated chargeback is subject to final determination, but the estimated amount is between \$3 to \$8 per square foot, for an area approximating 23,700 square feet.

BACKGROUND

The Thorncliffe Branch (the "Branch") was built in 1970 upon lands owned by the East York Public Library Board ("EYPLB") at 48 Thorncliffe Park Drive. When EYPLB originally requested funding from the Borough of East York to build the Branch, the Borough required that EYPLB allow the lower level of the library building (the "Building") to the Borough to be used for (i) a daycare and (ii) recreation space.

In 1996, the Borough's Parks & Recreation Division added an addition to the rear of the Building which consisted of a gymnasium and meeting rooms, and which addition is known as the Jenner Jean-Marie Community Centre. From that time onwards, the lower level of the Building was no longer utilized by the Borough for recreation space, however, the daycare continued to operate in the lower level immediately below the Branch.

On December 8, 2007, the Facility was vacated to allow for expansion and renovations to be made. The daycare remained in the Facility until May 13, 2008 at which time it re-located to a temporary portable. The Facility remains under construction, and the branch will re-open in April 2010.

Due to the expansion and renovation of the Facility, the northerly portion of the expanded Facility is now situated on lands owned by the City, denoted on Attachment 1 as "Block M". In order to regularize this situation, it is recommended that the Toronto Public Library Board enter into an encroachment agreement with the City.

The Library will be responsible for the overall operations of the Facility, but for operational and financial reasons, it is preferable for the City, through the Parks, Forestry & Recreation Division, to have direct responsibility for the operations of the daycare on site, so it is also recommended that the Library lease to the City that portion of the Facility which will be used by the daycare operator denoted on Attachment 1 by the crosshatched area. Subject to City Council approval, the intention is to revert to the original arrangement between the Library, City and daycare operator, which was a lease to the City and a sub-lease from the City to the daycare operator. City staff are requesting that the rent under the lease be nominal between the City and the Library, with the City assuming responsibility for its share of utilities, taxes and its proportionate share of operating and capital costs. A shared use facility agreement will confirm this arrangement.

Based on preliminary estimates, the Facility will have a total area of approximately 35,000 square feet, allocated between Parks, Forestry & Recreation (17,300 square feet),

the Branch (11,400 square feet) and the daycare (6,400 square feet). As soon as it is possible to determine the exact space being used by the Library, the daycare operator and the City's Parks, Forestry & Recreation Division, then the various costs attributable to each of these occupants of the Facility will be negotiated by Library staff in a shared use facility agreement with Parks, Forestry & Recreation which will determine the share (including the daycare's share) of operating and capital costs.

COMMENTS

The City's legal staff have advised that the City and Library should enter into an encroachment agreement respecting that portion of the building which is situated on City lands and that there should be a lease to the City of that portion of the building to be used by the daycare operator.

The Library has been granted authority by City Council to enter into leases for a maximum term of ten years including renewal options, and because this is ten-year term with a ten-year renewal option, approval of City Council is required.

CONTACT

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SIGNATURE

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Attachment 1: Thorncliffe Branch Facility (48 Thorncliffe Park Drive)