

Section I – Items for Board of Directors Action

TO: Chair and Members of the Executive Committee
Friday, September 10, 2021 Meeting

FROM: Michael Tolensky, Chief Financial and Operating Officer

RE: **KINGCAL PROPERTIES AND MAINTENANCE INC.**
Proposal to Renew the Lease for 4948 Rutherford Road, City of Vaughan,
Regional Municipality of York, Humber River Watershed (CFN 39525)

KEY ISSUE

Proposal from Kingcal Properties and Maintenance Inc. to enter a lease renewal of Toronto and Region Conservation Authority (TRCA) owned land to operate and maintain a property maintenance and management company located north of Rutherford Road and west of Pine Valley Drive, municipally known as 4948 Rutherford Road, in the City of Vaughan, Regional Municipality of York, Humber River watershed.

RECOMMENDATION

THE EXECUTIVE COMMITTEE RECOMMENDS THAT WHEREAS TRCA is in receipt of a request from Kingcal Properties and Maintenance Inc. to enter into a lease agreement to operate and maintain a property maintenance and management company located north of Rutherford Road and west of Pine Valley Drive, municipally known as 4948 Rutherford Road, City of Vaughan, Regional Municipality of York, Humber River watershed;

AND WHEREAS it is in the opinion of TRCA that it is in the best interest of TRCA in furthering its objectives, as set out in Section 20 of the *Conservation Authorities Act*, to cooperate with Kingcal Properties and Maintenance Inc. in this instance;

THEREFORE, LET IT BE RESOLVED THAT TRCA enter a lease with Kingcal Properties and Maintenance Inc. for the use of 0.60 hectares (1.50 acres), more or less, said land being Part of Lot 16, Concession 7, municipally known as 4948 Rutherford Road, City of Vaughan, Regional Municipality of York;

THAT the lease with Kingcal Properties and Maintenance Inc. be subject to the following terms and conditions:

- (i) that the term of the lease be for 1 year together with an annual renewal option for the next four years at the sole option of TRCA;**
- (ii) that consideration be \$18,900 per annum, plus HST, with an annual increase of 5 percent throughout the term of the lease, plus HST;**
- (iii) that Kingcal Properties and Maintenance Inc. be responsible for all approvals, maintenance and costs required for the construction and operation of a property maintenance and management company;**
- (iv) that Kingcal Properties and Maintenance Inc. be responsible for all costs associated with the removal of any equipment and materials associated with the construction and operation of their property maintenance and management company, at the end of the lease term, and restore the site to the satisfaction of TRCA.**

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- (v) any other terms and conditions deemed appropriate by the TRCA staff and solicitor;

THAT said lease be subject to the approval of the Ministry of Natural Resources and Forestry in accordance with Section 21(2) of the *Conversation Authorities Act*, R.S.O. 1990, Chapter C.27, as amended, if required;

AND FURTHER THAT authorized TRCA officials be directed to take the necessary action to finalize the transaction, including obtaining any necessary approvals and the signing and execution of documents.

BACKGROUND

At Executive Committee Meeting #8/07, held on October 26, 2007, Resolution #A230/07 was adopted in part as follows:

“THAT...Toronto and Region Conservation Authority (TRCA) has been requested by Kingcal Properties & Maintenance Inc. to enter into a lease arrangement for lands situated at 4948 Rutherford Road, Vaughan, known as the Former Nursery Workshop site;

...THAT TRCA enter into a lease of approximately 0.60 hectares, more or less, (1.5 acres) of land with Kingcal Properties & Maintenance Inc., for the operation of a property maintenance and management business and wholesale nursery business said land being Part of Lot 16, Concession VII, City of Vaughan, Regional Municipality of York;

THAT the lease with Kingcal Properties & Maintenance Inc. be premised on the following:

(i) the initial term of the lease will be for three years, with two renewal options for successive one-year periods, subject to the concurrence of TRCA to the renewals;

(ii) the lease rate is to be \$1,271.67 per month;

(iii) Kingcal Properties & Maintenance Inc., has agreed to lease the lands in 'as is' condition;

(iv) TRCA shall continue to have exclusive use of 760 square feet at no cost;

(v) any other terms and conditions deemed appropriate by TRCA's solicitor...”

TRCA is currently in receipt of a request from Kingcal Properties and Maintenance Inc. to renew their lease agreement for their business operation located north of Rutherford Road, and west of Pine Valley Drive, municipally known as 4948 Rutherford Road, City of Vaughan, Regional Municipality of York, Humber River watershed. Known as TRCA's Former Nursery Workshop site, given the successful construction of TRCA's Restoration and Infrastructure Campus, TRCA no longer utilizes 760 square feet of the building under lease to Kingcal Properties and Maintenance Inc. as part of this commercial lease agreement.

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Since entering into the original rental agreement with Kingcal Properties and Maintenance Inc. in 2008, TRCA has continued to renew the agreement with the tenant on an annual basis, for the operation of their business for the wholesale distribution of trees, shrubs, and garden nursery items, as well as the storage of equipment in connection with the distribution and operation of the aforesaid, excluding retail sales.

During Kingcal Properties and Maintenance Inc.'s tenure, their annual rental rate has been increased by approximately eighteen percent, from the 2008 annual rate of \$15,260 plus HST, to an annual rate of \$18,000 plus HST for the 2020 lease period. With this lease renewal, the annual rental rate would be increased by five percent, to an annual rental rate of \$18,900, plus HST, for the 2021 lease period.

Although the tenant requests a term of ten years for this lease renewal, TRCA cannot enter into lease agreements for terms longer than five years without provincial approval. TRCA therefore recommends a one-year lease renewal with the option of four one-year extensions, at the sole option of TRCA, with a five percent annual increase in rent, plus HST.

With this lease renewal, Kingcal Properties and Maintenance Inc. would continue to assume all responsibility for the lands under lease, which would include but not be limited to all costs pertaining to any renovations, repairs, utilities, and at the time of lease termination, any site restoration expenses that may be required and to the satisfaction of TRCA.

Attachment 1 is a sketch illustrating the location of the subject lands. **Attachment 2** is an orthophoto illustrating the location of the subject lands.

Lease Agreement

The area subject to this lease consists of approximately 0.60 hectares (1.50 acres) of land. The following are the key terms and conditions of the proposed lease arrangement:

1. Lease Payment: \$18,900 per annum together with an annual increase of five percent, plus HST;
2. Initial Term: 1 year, together with four one-year extension options, at TRCA's sole option;
3. Insurance: Kingcal Properties and Maintenance Inc. will provide five million in commercial general liability insurance;
4. Utilities: Kingcal Properties and Maintenance Inc. will be responsible for all applicable utilities;
5. Further Approvals: Kingcal Properties and Maintenance Inc. will comply with any applicable laws, directions, rules, and regulations.

RATIONALE

Renewing the lease agreement with Kingcal Properties and Maintenance Inc. would be in the best interest of TRCA in furthering its objectives as set out in Section 20 of the *Conservation Authorities Act*, allowing for continued revenue generation, supporting financial sustainability of TRCA's commercial leasing portfolio.

Relationship to Building the Living City, the TRCA 2013-2022 Strategic Plan

This report supports the following strategy set forth in the TRCA 2013-2022 Strategic Plan:
Strategy 7 – Build partnerships and new business models

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FINANCIAL DETAILS

Rental revenue generated from this lease will be used for TRCA purposes and applied to account code 002-43-030.

Report prepared by: Lisa Valente, extension 5297

Emails: lisa.valente@trca.ca

For Information contact: Andrew Savor, extension 6477

Emails: andrew.savor@trca.ca

Date: July 30, 2021

Attachments: 2

Attachment 1: Site Plan

Attachment 2: Orthophoto