

## **Appendix “A”**

### **Amendments to the existing Lease**

#### **1. Capital Funding Provisions:**

Amend the City's Lease to the CFC to include provisions for the payment of the City's one million dollar capital funding and the Infrastructure Stimulus Funding, including the following:

- (a) The City and Tenant shall each appoint a representative to deal with the Tenant's plans for its state of good repair projects and other eligible projects and the City's approval of them pursuant to the Lease;
- (b) For the purpose of administering payments of the City's capital funds and the Infrastructure funds, the Executive Director, Cultural Services, EDC, may: (i) approve the release of such funds as the projects are carried out; and, (ii) make such requirements, rules and process which the Tenant shall fulfill for approval to the projects which may be the subject of the City's capital funding or the Infrastructure funding and for the payment of such funding;
- (c) To obtain an advance of any funding, the Tenant shall submit for approval of the City Representative prior to commencement of any projects, in addition to any other approvals required under the Lease, including that of the Chief Corporate Officer, heritage, zoning and restrictive covenant holders' consent, a Works' Plan, together with such other information as the City Representative may require, including sufficient information:
  - i) to establish the estimated Works and the Costs eligible for funding;
  - ii) to obtain the approval of the City Representative to the Works' Documents and the Works' Plan, including the drawings and specifications of the proposed Works; and,
  - iii) to satisfy the City's representative, prior to the Tenant's commencement of its Works, that the Tenant has or has secured from its sponsors, at least one million dollars to match the City's one million dollar capital funding to fund the Tenant's costs of its state of good repair projects;
- (d) The Tenant's Works' Documents shall:
  - i) include a detailed Works' Cost Budget/Schedule including future estimated expenditures timeframes and identifying those Works which the Tenant proposes be the subject of the funding;
  - ii) include contracts and other information relating to Tenant's architects, engineers, contractor(s) and the terms of their respective contracts;
  - iii) comply with the historic designation of the Leased Premises and the Heritage Conservation Easement; and,
  - iv) include the drawings and plans in respect of the of the non-Works elements at the Leased Premises, to assist the City Representative's review of the Works' Documents and to review such non-Works for the approval of the Landlord where such approval is also required under the Lease;

- (e) The Tenant covenants to the City that:
  - i) the Tenant shall provide (and/or raise from sources, other than the Landlord), its matching one million dollars and such other funds, if any, necessary to meet the Tenant's costs of those City funded capital Works and to meet all other non-Works' costs at the Leased Premises;
  - ii) in the event unbudgeted or other cost overruns should arise during the term of the Lease, the Tenant agrees and acknowledges that it is its responsibility to provide sufficient funds as may be necessary to fully satisfy such additional costs;
  - iii) the Landlord is not and shall not be responsible for the payment of:
    - aa) any of the Works' costs at the Leased Premises except for the approved funding instalments; and,
    - bb) those other costs of Works' in excess of the approved funding instalments;
  - iv) the Tenant shall bear all of its administrative expenses, including legal fees. In the event that this funding is deemed subject to GST or HST or other tax, the Landlord may deduct from any or all of the funding instalment payments, an amount in respect of such tax, and,
  - v) the tenant shall comply with and assume all the requirements upon the Landlord set out in "Infrastructure Stimulus Fund Contribution Agreement"; and,
- (f) If the Tenant fails to perform the conditions of the City's requirements with respect to the funding, the City shall be entitled to its remedies to enforce this Lease, including, but not limited to, ceasing or delaying the release of any of the funding instalment payments and if the Tenant fails to remedy a breach within such times as may be specifically provided for, or within such time as may reasonably be required, after receipt of notice in writing to that effect, the Landlord may exercise any of its remedies under the Lease for default by the Tenant.

**2. Lease Repair Provisions:**

Amend the Lease such that the Tenant's obligation for repairs, maintenance and replacement shall only be subject to an exception for damage or injury caused by or resulting from any act, default or negligence of the Landlord, its officers, agents servants, employees or contractors.

**3. Revisions to Area of the Leased Premises:**

Amend the description of the lands included in the leased premises in the City's Lease to the CFC to:

- (i) facilitate the Tenant's proposed below-grade geo-thermal energy system (replacing the main house's obsolescent HVAC equipment), intended to be installed beneath the two acre landscaped frontage of the property and the circular driveway connecting the main building with Bayview Avenue, by including such landscaped area and such driveway in a revised description

- of the leased premises, provided the Tenant is required to maintain such landscaped area as a landscaped area; and,
- (ii) confirm the City's existing use of the private driveway within the leased premises for access between Bayview Avenue and the City park at the rear of the leased premises and for access between the City's maintenance garages, Bayview Avenue and the park, by including a right of way in favour of the City in such driveway and in the circular driveway in a revised description of the leased premises.

#### **4. Heritage Provisions:**

Amend the City's Lease to the CFC to include provisions to ensure that applicable heritage controls are protect the cultural heritage value and heritage attributes of the Leased Premises, including, but not limited to, the historic main house, the adjacent staff houses and the gate house, in accordance with the following:

- (a) the Tenant shall not alter, restore, renovate, repair or disturb the leased premises or permit the alteration of the leased premises (collectively, the "alteration") if the alteration is likely to impact the leased premises' heritage attributes described in Heritage Designation Bylaw #318-74, unless the Tenant first obtains the City's consent, as Landlord, and if such consent obtained, the Tenant also applies, at its expense, where required, on behalf of the City, as owner, to City Council and receives consent in writing to the alteration in accordance with the provisions of the *Ontario Heritage Act*;
- (b) all projects by the Tenant on the leased premises shall also be consistent with municipal, provincial and federal heritage conservation guidelines; and, that minor repairs, alterations and improvements by the Tenant, provided they maintain the heritage character of the leased premises, shall be subject to the approval of the Chief Planner pursuant to City By-law 929-2005;
- (c) to provide, in a new Schedule to the Lease, the Tenant's grant of a heritage easement in the Leased Premises to the City pursuant to which the Tenant agrees to protect and to maintain the cultural heritage value and heritage attributes of the leased premises on terms satisfactory to the Manager of Heritage Preservation Services and the Director of Real Estate Services; and,
- (d) both the transfer of the said heritage easement to the City and the existing heritage designation by-law shall be registered against all of the leased premises, including the additional areas to be added to the leased premises by the Lease Amending Agreement.

#### **5. Status of Lessee Provisions**

Amend the City's Lease to include provisions that the Tenant shall represent and warrant to the Landlord that:

- (a) the Tenant is and shall, at all times during the Term, maintain itself as a duly incorporated, and validly existing Non-Profit Organization in good standing under the laws of Ontario or Canada, as the case may be; and,

- (b) the Tenant has the necessary corporate power, legal right and authority to enter into the Lease Amending Agreement.

**6. Lease Termination Rights**

Amend the City's Lease to delete the Tenant's right in clause 30.01 to terminate this lease on thirty days' notice.