

## Agreement with Toronto Event Centre Inc.

**Date:** June 15, 2021

**To:** General Government and Licencing Committee

**From:** Deputy City Manager, Corporate Services, and Chief Executive Officer,  
Exhibition Place

**Wards:** 10 – Spadina-Fort York

### REASON FOR CONFIDENTIAL INFORMATION

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The attachment to this report is about a position, plan or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the City of Toronto (the "City") and The Board of Governors of Exhibition Place.

### SUMMARY

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The Board of Governors of Exhibition Place (the "Board") and Muzik Clubs Inc. ("Muzik") entered into a lease dated February 16, 2004, for premises consisting of approximately 37,820 square feet of leasable area, 2,920 square feet of basement space and 86,758 square feet of patio space, in and around the building known as Horticulture Building at Exhibition Place (the "Leased Property"). The lease was subsequently assigned by Muzik to Toronto Event Centre Inc. (the "Tenant") on April 27, 2017, and expires on February 15, 2024 (the "T.E.C. Lease").

This report recommends that City Council ("Council") approve entering into an agreement with the Tenant with respect to the T.E.C. Lease (the "Agreement") as further set out in Confidential Attachment 1, and subject to certain conditions, a new lease agreement with the Tenant (the "New Lease") at the Leased Property for the operation of a typical nightclub, live performance venue and ancillary uses such as banquets and other events, all on the terms and conditions set out in Appendix A and Confidential Attachment 2, as approved by the Board, subject to obtaining the necessary City authorization, by adoption of Item EP17.3 at its meeting of April 15, 2021.

## RECOMMENDATIONS

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The Deputy City Manager, Corporate Services, and the Chief Executive Officer, Exhibition Place, recommend that:

1. City Council approve an agreement with the Toronto Event Centre Inc. substantially on the terms and conditions set out in Confidential Attachment 1, and such other terms and conditions as deemed appropriate by the Deputy City Manager, Corporate Services and Chief Executive Officer, Exhibition Place and in a form satisfactory to the City Solicitor (the "Agreement").
2. Provided that Toronto Event Centre Inc. is and has been in good standing and full compliance at all times with the terms and conditions of the existing T.E.C. Lease and the Agreement, up to and including the expiry of the T.E.C. Lease on February 15, 2024, City Council approve a new lease (the "New Lease") between the City of Toronto, as landlord, Toronto Event Centre Inc., as tenant, and The Board of Governors of Exhibition Place (the "Board"), for a term of ten (10) years commencing on February 16, 2024, with a tenant's option to extend for a further term of seven (7) years, substantially on the terms and conditions set out in Appendix A and Confidential Attachment 2, and such amended or other terms and conditions deemed appropriate by the Deputy City Manager, Corporate Services and the Chief Executive Officer, Exhibition Place, and in a form satisfactory to the City Solicitor.
3. City Council direct that Confidential Attachment 1 and Confidential Attachment 2 to this report remain confidential in its entirety and not be released publicly as this report is about a position, plan or instruction to be applied to negotiations carried on or to be carried on by or on behalf of the Board and the City.

## FINANCIAL IMPACT

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The financial implications resulting from this report are provided in Confidential Attachment 1 and Confidential Attachment 2.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

## DECISION HISTORY

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At its meeting of April 15, 2021, the Board, by its adoption of Item EP17.3, approved, subject to obtaining the necessary City authorization, the Agreement, substantially on the terms and conditions set out in Appendix A and Confidential Attachment 1. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EP17.3>

At its meeting of December 19, 2019, the Board approved, subject to obtaining the necessary City authorization, an agreement with the Tenant substantially on the terms

and conditions set out in Confidential Attachment 1 to the report (November 29, 2019) from the Chief Executive Officer, Exhibition Place, as amended by the Board in closed session, and on the additional terms and conditions, set out in Confidential Attachment 1 to the supplementary report (December 16, 2019) from the Chief Executive Officer, Exhibition Place, and on such other terms and conditions as deemed appropriate by the Chief Executive Officer and the Deputy City Manager, Corporate Services or her delegate, and in a form satisfactory to the City Solicitor.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EP8.11>

At its meeting of October 24, 2019 the Chief Executive Officer, Exhibition Place reported back to the Board as directed and the Board, subject to obtaining the necessary City authorization, adopted certain confidential instructions to staff set out in Confidential Attachment 1 to the report dated October 22, 2019 from the Chief Executive Officer, Exhibition Place.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EP7.4>

At its meeting of September 19, 2019 the Chief Executive Officer, Exhibition Place reported back to the Board as directed and the Board referred the item EP6.16 to the Chief Executive Officer, Exhibition Place with a request he meet with the Tenant and report back to the October 24, 2019 meeting of the Board.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EP6.16>

In addition, at its meeting of June 13, 2019, the Board directed the Chief Executive Officer, Exhibition Place to report back to the Board on the compliance with the above agreement.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EP3.23>

At its meeting of June 13, 2019 the Board, subject to obtaining the necessary City authorization, approved an agreement respecting Article 4 of the T.E.C. Lease, substantially on the terms and conditions set out in Confidential Attachment 1 to the report (May 30, 2019) from the Chief Executive Officer, Exhibition Place, and any such other terms and conditions deemed appropriate by the Deputy City Manager, Corporate Services and the Chief Executive Officer, Exhibition Place and in a form satisfactory to the City Solicitor.

At its meeting dated June 12, 2003, the Board approved entering into a lease with Muzik for a term of twenty (20) years, which report was subsequently approved by City Council at its meeting of June 24, 25 and 26, 2003.

<https://www.toronto.ca/legdocs/2003/agendas/council/cc030624/pof5rpt/cl017.pdf>

## **COMMENTS**

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The term of the T.E.C. Lease commenced on February 16, 2004 and is set to expire on February 15, 2024. During the first two (2) years of the T.E.C. Lease, the Tenant carried out substantial renovations to the former Horticulture Building and formally opened for business on February 16, 2006 as a high-end night club venue.

In 2013, the Tenant undertook upgrades valued at approximately \$5.0 million to develop a patio and pool venue around the indoor premises. In order to finance these enhancements to the Leased Property, the Tenant requested a ten-year extension to the current lease term, for a total term of 30 years, to February 15, 2034. This amendment was approved by the Board at its meeting in December 2012 (Item number 19), subject to City Council approval. The amendment was never approved by City Council, since at the time the City was prohibited from entering into a lease with a cumulative term exceeding twenty-one years for lands designated in the City Official Plan as Parks and Open Space, without an Official Plan Amendment. Since then, the provisions of the City's real estate disposal by-law have changed so that a lease or lease extension of Parks and Open Space lands may be entered into, provided the remaining term of the lease (as opposed to the cumulative term) plus any extension does not exceed twenty-one (21) years.

More recently, as noted above, the Tenant rebranded from the "Muzik Night Club" to the "Toronto Event Centre" and expanded the operations to include marketing to corporate events. In 2018, the Tenant again undertook interior renovations to support the added entertainment offering as a "supper club" and launched and promoted this new brand in late 2018.

The Board decision of June 13, 2019 was to approve an agreement with the Tenant to allow the Tenant an opportunity to develop the new entertainment direction, subject to obtaining any required City approvals, and to report back to the Board at its meeting on September 19, 2019 on the Tenant's compliance with the agreement.

In late 2019, Exhibition Plan staff reported back to the Board with the requested information on the Tenant's compliance with the lease. At that meeting, the Board approved a proposed agreement with the Tenant, the details of which remain confidential.

Since then, the Board and City staff have undertaken further negotiations with the Tenant regarding the Agreement and the New Lease. The New Lease is conditional on execution and compliance on the Agreement and include the following key terms: (i) net lease to the Landlord for a ten (10) year term, with one (1) option to extend for an additional term of seven (7) years; (ii) Leased Property shall be used for activities related to a typical nightclub and live performance venue, along with ancillary uses such as banquets and special events, as further outlined in the Appendix A and Confidential Attachment 2. This report recommends that City Council approve entering into (i) the Agreement on the terms and conditions set out in Confidential Attachment 1 and, (ii) subject to certain conditions, the New Lease with the Tenant on the terms and conditions set out in Appendix A and Confidential Attachment 2, as approved by the Board at its meeting of April 15, 2021, by its adoption of Item EP17.3.

## **CONTACT**

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## **SIGNATURE**

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Don Boyle  
Chief Executive Officer, Exhibition Place

Josie Scioli  
Deputy City Manager, Corporate Services

## **ATTACHMENTS**

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Appendix A - Terms and Conditions of New Lease  
Confidential Attachment 1 - Agreement Pursuant to Toronto Event Centre Lease  
Confidential Attachment 2 - Terms and Conditions of New Lease

## Appendix A - Terms and Conditions of New Lease

### Background:

By a lease dated February 16, 2004, the Board of Governors of Exhibition Place (the "Board"), as landlord, leased to Muzik Clubs Inc. ("Muzik"), as tenant, the Leased Property for a term of twenty (20) years commencing on February 16, 2004 and expiring on February 15, 2024.

The lease was subsequently assigned, effective April 27, 2017, by Muzik to Toronto Event Centre Inc. (the "Tenant") (the lease, as assigned, being the "T.E.C. Lease")

Provided that the Tenant is and has been in good standing and full compliance at all times with the terms and conditions of the T.E.C. Lease and the Agreement (as defined in Recommendation 1), up to and including the expiry of the T.E.C. Lease on February 15, 2024, the City of Toronto (the "Landlord") will enter into a new lease with the Tenant on the terms and conditions set out herein and in Confidential Attachment 2 (the "New Lease"). For certainty, the Tenant will be considered to be in good standing and full compliance with the terms and conditions of the T.E.C. Lease if it corrects and cures any and all defaults within the applicable cure periods set out in the T.E.C. Lease; any default not corrected and cured within such applicable cure period shall be a default under the T.E.C. Lease and the Agreement.

All capitalized terms not otherwise defined herein have the meaning given them in the T.E.C. Lease.

### Terms and Conditions of New Lease:

T.E.C. Lease	The New Lease shall be materially on the same terms and conditions as the T.E.C. Lease, save as modified or amended in this Appendix "A" and Confidential Attachment 2, and subject to any necessary changes to reflect the City of Toronto, rather than the Board, as Landlord.
Landlord	City of Toronto (the "Landlord")
Board Execution	The Board will also execute the New Lease and, unless the Landlord advises otherwise and save as expressly otherwise provided in the New Lease, all rights, covenants and obligations of the Landlord may be exercised, performed or complied with by the Landlord and/or the Board.
Tenant	Toronto Event Centre Inc. ("T.E.C." or the "Tenant")
Leased Property	Approximately 37,820 square feet of leasable area, 2,920 square feet of basement space and 86,758 square feet of patio space, in and around the building known as Horticulture Building at Exhibition Place (the "Building").

Statuary of Garden of Greek Gods	The Existing Statuary (Garden of Greek Gods) shall not form part of the Leased Property. Further details of the provisions of the Agreement regarding the Existing Statuary are set out in Confidential Attachment 1 and Confidential Attachment 2
Term	Ten (10) years, commencing February 16, 2024 and expiring February 15, 2034 (the "New Term").
Option to Extend	Provided that the Tenant is and has been in good standing and full compliance at all times with the terms and conditions of the New Lease and the Agreement, the Tenant shall have one (1) option to extend the New Term for a further term of seven (7) years (the "Option to Extend"). The extension term shall be on the same terms and conditions as the New Lease, except that Basic Rent shall be as set out in Confidential Attachment 2 and there shall be no further right to extend or renew the New Term.
Basic Rent	See Confidential Attachment 2
Participation Rent	See Confidential Attachment 2
Additional Rent	The Tenant shall be responsible for all Additional Rent as defined in the T.E.C. Lease, including but not limited to the costs of leasehold improvements, taxes, utilities, operating and management costs, and all other costs not expressly stated to be payable by the Landlord
Payment of Rent	All payments of Basic Rent, Participation Rent and Additional Rent, shall, unless the Landlord advises otherwise, be paid to the Board.
Harmonized Sales Tax (H.S.T.):	The Tenant shall be responsible for paying all H.S.T. and other applicable taxes on all amounts payable under the New Lease.

Net Lease	<p>As in the T.E.C. Lease, the New Lease is a carefree and absolutely net lease to the Landlord, except as expressly set out, and that the Landlord shall not be responsible during the Term for any costs, charges, expenses, and outlays of any nature whatsoever arising from or relating to the Leased Property, the contents, the use or occupancy thereof, or the business carried on therein. The Tenant shall pay all charges, impositions, costs and expenses of every nature and kind, extraordinary as well as ordinary and foreseen as well as unforeseen, relating to the Leased Property. Any amount and any obligation relating to the Leased Property not expressly declared in the New Lease to be the responsibility of the Landlord shall be the responsibility of the Tenant.</p>
Permitted Use	<p>The Tenant shall use the Leased Property for the Principal Use as defined in the T.E.C. Lease – i.e. activities related to a typical nightclub and live performance venue which provides both recorded and live music for dancing and entertainment and serves food and beverages, including alcoholic beverages.</p> <p>Tenant shall be permitted to use the Leased Property for the Ancillary Uses, as defined in the T.E.C. Lease, with the addition of banquets on the terms and conditions set out below – i.e., the Tenant is permitted to host special events, including but not limited to as fashion shows, film and advertising shoots, corporate and charity events, televised sporting events, radio and internet broadcasting, product launches which relate specifically to the products and services typically used in the night club, concert hall and live performance businesses, and banquets on the terms and conditions set out below</p>



Exclusivity Rights	<p>The following provisions from Section 5.2 (Exclusive Use) of the T.E.C. Lease shall be deleted effective as of the commencement of the New Lease:</p> <p>Subject to existing contractual obligations, including rights granted with respect to the renovated Coliseum Arena and the Ontario Government Building (the "Existing Rights"), the Tenant shall have the exclusive right to use the Building as a permanent indoor live performance venue/nightclub which operates as a permanent liquor licensed venue solely for the purpose of providing live and recorded musical entertainment for standing room crowd capacities of greater than 500 persons but less than 2,999 persons, which maximum capacity may be adjusted downward, subject to the final occupancy permit for the Leased Property. In this paragraph, "permanent use" shall mean continuous marketing and operation of the Leased Property for the sole purpose of live musical performances and dancing in the manner set out above, and shall not preclude other events on the Lands such as weddings, banquets, or public gatherings which may include dancing and other forms of entertainment</p>
Banquets	<p>The Tenant will be allowed to host up to and including 35 banquets per Lease Year. If the Tenant wishes to hold more than 35 banquets in a Lease Year, it must obtain the consent of the C.E.O. of the Board (the "C.E.O."), Unless otherwise agreed by the C.E.O., the Tenant will require a further C.E.O. consent for each batch of five (5) banquets above 35. By way of example, further C.E.O. consent would be required for 40 to 44 banquets, 45 to 49 banquets, and so on. All consents required of the C.E.O. under this provision will be at his or her sole and unfettered discretion</p>
Maintenance and Repairs	<p>Throughout the New Term and any extension thereof, the Tenant will be responsible for all maintenance and repairs to the Building, including without limitation the dome, and Leased Property as provided for under the T.E.C. Lease. Without limitation to the foregoing, the Tenant will be responsible for completion of all Dome Repairs remaining after the initial investment in the Dome Repairs, as set out in Confidential Attachment 1</p>

Assignment, Subletting	<p>The Tenant shall not Assign, in whole or in part, the New Lease or the leasehold interest of the Tenant in the Leased Property, or otherwise dispose of same, without first obtaining the written consent of the Landlord, which consent may not be unreasonably withheld.</p> <p>"Assign" or "Assignment" includes any sale, letting, licensing, subletting, set over, mortgaging, charging, hypothecating, transfer, creating any security interest in or assigning of the leasehold interest or parting with possession of all or any part of the Leased Property or of the New Lease, and/or any sale, transfer, assignment or issuance of shares of the Tenant having the effect of transferring de facto control from those in control of the Tenant at the commencement date of the New Lease, and "Assignee" has a corresponding meaning</p>
Lease Documentation	<p>The New Lease shall be on materially the same terms and conditions as the T.E.C. Lease, as amended by this Appendix A, Confidential Attachment 2 and the Agreement, subject to changes to reflect the City, rather than the Board, as Landlord and save and except that Basic Rent and Percentage Rent shall be as set out in Confidential Attachment 2. The New Lease shall be prepared on the Landlord's standard form of lease and may contain supplementary and updated terms and conditions not set out herein, such terms and conditions not to be inconsistent with terms and conditions herein, and such documentation shall be to the satisfaction of the City Solicitor</p>

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