

Proposed Terms and Conditions for a Long-Term Lease with A Different Booklist Cultural Centre at 756 Bathurst Street and Acceptance of Donations

Date: November 18, 2021

To: Economic and Community Development Committee

From: Interim General Manager, Economic Development and Culture, Executive Director, Corporate Real Estate Management, Director, Strategic Partnerships

Wards: Ward 11 - University-Rosedale

SUMMARY

This report seeks authority for the City (as the "Landlord") to enter into a 49-year below-market rent lease agreement (the "Lease") with A Different Booklist Cultural Centre ("A.D.B.C.C.", as the "Tenant") in respect of the property located at 756 Bathurst Street. 756 Bathurst Street is a three-storey building with ground floor retail fronting on Bathurst Street that will be purchased by the City from the developer of the adjacent mixed-use development known as Mirvish Village (the "Leased Premises"), pursuant to an Agreement of Purchase and Sale executed in December 2017.

A.D.B.C.C. is an organization engaged in promoting the cultural, social, educational and economic well-being of the African Canadian and Caribbean Canadian communities, by providing space for community projects and events; and through the sale of cultural and educational products. Although the organization is a not-for-profit, it is associated with a for-profit bookstore, which makes them ineligible to participate in the City's Community Space Tenancy program. By entering into the Lease, A.D.B.C.C. will become eligible for federal capital funding programs.

This report also seeks authority for the City to accept donations in compliance with the *Donations to the City of Toronto For Community Benefits Policy* with respect to the capital project at 756 Bathurst Street until A.D.B.C.C. achieves charitable status with the Canada Revenue Agency and is able to issue charitable receipts for income tax purposes for donations received on behalf of their own organization.

RECOMMENDATIONS

The Interim General Manager, Economic Development and Culture, Executive Director, Corporate Real Estate Management and Director, Strategic Partnerships recommend that:

1. City Council waive the application of the Community Space Tenancy Policy ("C.S.T. Policy") in respect of the Lease including the requirements outlined in the Request for Expressions of Interest in the C.S.T. Policy and declare that it is in the interest of the City to grant a Lease to A Different Booklist Cultural Centre for nominal consideration.
2. City Council authorize the Executive Director, Corporate Real Estate Management, to negotiate and enter into a 49-year below-market rent lease agreement (the "Lease") between the City, as the Landlord, and A Different Booklist Cultural Centre, as the Tenant, in respect of 756 Bathurst Street (the "Leased Premises"), substantially on the major terms and conditions summarized in Attachment 1, and on other terms and conditions as deemed appropriate by the Executive Director, Corporate Real Estate Management, or their designate, and in a form acceptable to the City Solicitor
3. City Council declare 756 Bathurst Street surplus with the intended manner of disposal to be by way of a long-term lease to A Different Booklist Cultural Centre and City Council direct staff to take all steps necessary to comply with the City's real estate disposal process set out in City of Toronto Municipal Code Chapter 213, Sale of Real Property.
4. City Council direct the Executive Director, Corporate Real Estate Management, as landlord, to permit the tenant to perform State of Good Repair and Accessibility for Ontarians with Disabilities Act compliance work on behalf of the Landlord with an estimated value of \$7,688,000 exclusive of Harmonized Sales Tax, on terms and conditions satisfactory to the Executive Director, Corporate Real Estate Management (as outlined in Attachment 1) and including compliance with the City's Fair Wage Policies and labour trade contractual obligations and in a form satisfactory to the City Solicitor.
5. City Council authorize the Director of Strategic Partnerships to accept donations in compliance with the Donations to the City of Toronto for Community Benefits Policy, subject to A Different Booklist Cultural Centre satisfying the terms and conditions listed in Attachment 2.

FINANCIAL IMPACT

The Lease will be provided to the Tenant for a nominal sum of \$2.00 plus Harmonized Sales Tax ("H.S.T."), and will be cost neutral to the City as outlined in Attachment 1. The Tenant will be responsible for all realty taxes and operating costs associated with the Lease, currently estimated at \$100,000 plus H.S.T. for the first year, or \$12.00 per square foot, based on the City's historical data.

The opportunity cost of the Lease, expressed in net present value terms, for the 49-year lease period is approximately \$8,103,660.

The Tenant will be responsible for capital improvement work including State of Good Repair ("S.O.G.R.") and Accessibility for Ontarians with Disabilities Act ("A.O.D.A.") compliance work on behalf of the City with a value of \$7,688,000 exclusive of H.S.T. For clarity, the City will not be reimbursing the Tenant for this work.

In addition to the compliance work, the Tenant plans to invest in a total demolition and renovation of the Leased Premises. To that end, a fundraising strategy will be developed in collaboration with Strategic Partnerships to cultivate donors and secure sponsorships for the capital campaign. The Tenant is actively pursuing various provincial and federal grants. Donations will be sought from the public and corporations to help support the Tenant's capital campaign as well as the ongoing operations and programming.

Staff will also seek to designate the Leased Premises as a Municipal Capital Facility in order to exempt the Leased Premises from realty taxation for municipal and school purposes and report back to City Council at a later date.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact Section.

DECISION HISTORY

On April 7 & 8, 2021 City Council directed the General Manager, Economic Development and Culture, the Executive Director, Corporate Real Estate Management, in consultation with the Chief Financial Officer and Treasurer and the Director, Strategic Partnerships, to report to the May 26, 2021 meeting of the Economic and Community Development Committee with proposed terms and conditions under which the City may accept donations in compliance the Donations to the City of Toronto For Community Benefits Policy with respect to the capital project at 756 Bathurst Street for a new home for A Different Booklist Cultural Centre, such conditions to include the fundraising requirements for a long-term lease, the acceptance of a business plan and capital project plans.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM31.21>

City Council at its meeting on December 16 & 17, 2020 authorized the Executive Director, Corporate Real Estate Management to initiate negotiations with A Different Booklist Cultural Centre for a long-term lease at 756 Bathurst Street, contingent on the General Manager, Economic Development and Culture's review of A Different Booklist Cultural Centre's long-term business plan, and to report back to City Council for authorization of the lease terms.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.MM27.11>

City Council at its meeting on July 4, 2017 authorized the purchase of 756 Bathurst Street, for \$2,550,000, for community and/or cultural use.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.MM31.69>

COMMENTS

A Different Booklist Cultural Centre's Background

A.D.B.C.C. is a not-for-profit cultural organization with a mission to serve the Black community in Toronto and promote cultural, social, and economic activities. The not-for-profit organization grew out of the bookstore A Different Booklist, which was an informal cultural hub for the Black community for close to two decades. A Different Booklist was forced to relocate by the re-development of the former Honest Ed's/Mirvish Village site at 746 Bathurst Street and is now currently housed at 777 Bathurst Street.

Recommended Long-Term Lease for A.D.B.C.C.

The City of Toronto has a long history of leasing municipally-owned or municipally managed space at below-market rent to not-for-profit organizations that deliver community and cultural services to residents to further the City's strategic objectives.

In November 2017, City Council adopted Item EX28.8 Community Space Tenancy Policy ("C.S.T. Policy") which provides staff with a process for determining eligibility and the authority to enter into below-market rent leases with not-for-profit organizations at City-owned properties. The C.S.T. Policy invites applications for a below-market rent tenancy at identified sites from qualified organizations, and awards leases for a period of up to five years through a request for Expressions of Interest ("R.E.O.I.") to the public.

However, the City staff are seeking a unique solution for A.D.B.C.C. as the organization requires a long term lease to secure funding from various funding organizations that will be used to continue to carry out its important cultural objectives and community works. In addition, rather than issuing an R.E.O.I. for 756 Bathurst Street, the City is working directly with A.D.B.C.C. to support their existing presence within the community.

Based on the unique circumstances described above, City staff recommend Council authorize the City to enter into a below-market rent lease agreement (the "Lease") with A.D.B.C.C. for 8,232 square feet of space at 756 Bathurst Street (the "Leased Premises"). The Lease would commence upon turnover of the Leased Premises from the developer, Westbank Corp., to the City.

Further, A.D.B.C.C. is planning to create and operate a bookstore at 756 Bathurst Street, a feature that is an ode to its history. The bookstore would have a separate space but be a part of the work to transform the building into a cultural centre. Once the Tenant's work is complete, the intention is for A.D.B.C.C. to surrender part of the Leased Premises back to the City so that the City can enter into a market lease with A.D.B.C.C. for the bookstore space in a separate transaction, by delegated real estate authority.

The City Accepting Donations on Behalf of A.D.B.C.C.

The fifth recommendation in this report seeks to authorize the City's collection of fundraising dollars and issuance of charitable receipts on behalf of A.D.B.C.C. until A.D.B.C.C. achieves charitable status with Canada Revenue Agency. The Leased Premises will be solely owned by the City with fundraising efforts supported by the City being applied to leasehold improvements. Any leasehold improvements undertaken by A.D.B.C.C. will become the property of the City and will benefit the City-owned community building. Therefore the City is looking to collaborate with A.D.B.C.C. to support community fundraising to fund leasehold improvements to the Leased Premises by accepting donated funds and issuing income tax receipts for this purpose, subject to the terms and conditions outlined in Attachment 2.

In addition to fundraising efforts, A.D.B.C.C. is seeking \$4,500,000 in federal funding from Infrastructure Canada, \$500,000 through Canadian Heritage's Cultural Spaces Program to help support the required capital renovations at 756 Bathurst Street.

Conclusion

Working with A.D.B.C.C. to secure their long-term tenancy and assist with fundraising to fit out the Leased Premises aligns with other broader City policy objectives articulated in the implementation plans of the Confronting Anti-Black Racism initiatives; the priority of Economic Development and Culture's Divisional strategic plan to ensure affordable and sustainable cultural space; and supports Recommendation 6 of the [Building Back Stronger](#) report adopted by City Council in December 2020 to: "Pursue a program of specific community investments to promote the encouragement, scaling and sustainability of business and cultural enterprises led by Black, Indigenous and equity-deserving groups." The proposed long-term Lease and acceptance of donations is precisely this kind of specific community investment recommended by Council.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1 - Suggested Terms and Conditions of Intention to Enter into a Long-Term Lease with A Different Booklist Cultural Centre

Attachment 2 - Suggested Terms and Conditions for Toronto Strategic Partnerships Office to Agree to Accept Donations on behalf of A Different Booklist Cultural Centre