

Community Space Tenancy Lease Agreement and Municipal Capital Facility Designation for Heritage York at 4066 Old Dundas Street

Date: March 15, 2021

To: General Government and Licensing Committee

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

Wards: Ward 4 – Parkdale - High Park

SUMMARY

The purpose of this report is to obtain City Council authority to enter into a Community Space Tenancy lease with Heritage York as a community partner for approximately 4,607 square feet of gross floor area within City-owned space located at 4066 Old Dundas Street (commonly known as Lambton House) and to have the leased premises designated as a municipal capital facility.

RECOMMENDATIONS

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

1. City Council authorize the City of Toronto to enter into a Community Space Tenancy lease (the "Lease") with Heritage York (the "Tenant") pursuant to the Community Space Tenancy Policy (the "CST Policy") as a Community Partner Tenant for the building premises located at 4066 Old Dundas Street and known as Lambton House comprising a gross floor area of approximately 4,607 square feet (the "Leased Premises") for a five (5) year term, with an option to renew/extend for another five (5) years, substantially on the terms and conditions set out in the attached Appendix "A", with such revisions thereto and on such other or amended terms and conditions as may be acceptable to the Deputy City Manager, Corporate Services in consultation with the General Manager, Economic Development and Culture, and in a form acceptable to the City Solicitor.
2. City Council authorize each of the Deputy City Manager, Corporate Services and the Executive Director, Corporate Real Estate Management severally to execute the Lease and any related documents on behalf of the City of Toronto, as required.

3. City Council authorize the Deputy City Manager, Corporate Services or his/her designate to administer and manage the Lease, including the provision of any amendments, consents, approvals, waivers, notices and notices of termination, provided that the Deputy City Manager, Corporate Services may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction.

4. City Council pass a By-law pursuant to Section 252 of the City of Toronto Act, 2006, providing authority to:

a) Enter into a Municipal Capital Facility Agreement with the Tenant for the leased Premises for the purposes of providing a municipal capital facility related to the provision of cultural services.

b) Exempt the Leased Premises from taxation for municipal and school purposes, with the tax exemption being effective from the latest of: (1) the commencement date of the Lease, (2) the date the Municipal Capital Facility Agreement is entered into, and (3) the date the Tax Exemption By-law is enacted.

5. City Council direct the City Clerk to give written notice of the amended By-law to the Minister of Finance, the Municipal Property Assessment Corporation, the Toronto District School Board, the Toronto Catholic District School Board, le Conseil scolaire Viamonde, and le Conseil scolaire catholique MonAvenir.

FINANCIAL IMPACT

The Lease will provide the Tenant with a gross floor area of approximately 4,607 square feet of community space for nominal rent. All operating costs of a non-capital nature will be the responsibility of the Tenant.

In accordance with the terms of the Lease, the Tenant will be responsible for all realty taxes and operating costs related to the Leased Premises, currently estimated at \$15,383.00 per year, based on the occupancy costs for the year 2020 reported by the Tenant; resulting in no operating costs to the City.

In accordance with the CST Policy, the total opportunity cost of the Lease over the five (5) year term is estimated to be approximately \$269,357.00 plus HST. The total opportunity cost of over the five (5) year renewal/extension term is approximately \$233,015.00 plus HST. Accordingly, the total opportunity cost for both the initial and the renewal/extension term is \$502,372.00 plus HST.

The Leased Premises is owned by the City. Although properties owned by the City are exempt from taxation, the Tenant may be a taxable tenant and the Leased Premises may therefore be subject to taxation. The combined annual property taxes on the Leased Premises occupied by the Tenant is estimated at approximately \$24,456,

comprised of a municipal portion of \$12,970 and a provincial education portion of \$11,486, based on an estimated 2020 Current Value Assessment and 2020 tax rates.

Providing a property tax exemption for the Leased Premises will result in a net annual reduction in property tax revenue to the City of approximately \$12,970, representing the municipal portion of taxes that are currently payable that will no longer be collected once the Leased Premises is designated as a municipal capital facility, as shown below in Table.1. The provincial education portion of property taxes of \$11,486 will not be required to be remitted to the Province of Ontario once the exemption for the Leased Premises takes effect, with no net impact to the City.

Table 1: Financial Implication of Property Tax Exemption – 4066 Old Dundas Street

Location	Municipal Taxes	Education Taxes	Total Property Taxes
4066 Old Dundas Street 1914-08-2-290-01000	\$12,970	\$11,486	\$24,456
Total Amounts Payable if Exempt	\$0	\$0	\$0
Reduction in Municipal Tax Revenues			\$12,970
Reduction in Education Taxes Remitted			\$11,486

Given that Municipal Capital Facility exemptions are not retroactive and the Tenant has been located in the facility since 1991, in the event that the Municipal Property Assessment Corporation determines that the Tenant has been in taxable occupation of the Leased Premises, the Municipal Property Assessment Corporation may issue supplementary/omitted assessment notices for the current year and the prior two years. Should the Municipal Property Assessment Corporation issue this additional taxable assessment, this would result in an unfunded estimated potential financial impact of \$50,430 for the 2018 and 2019 taxation years combined, and an unfunded amount of \$24,456 for the current budget year. If a tax bill is issued to the Tenant, the City will work with the Tenant to address the cost.

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

DECISION HISTORY

At its meeting on January 16, 1998, The Corporate Services Committee authorized a lease for Heritage York at 4066 Old Dundas Street (Lambton House):
<https://www.toronto.ca/legdocs/1998/minutes/committees/cs/cs980120.pdf>

At its meeting on November 19 and 20, 2007, Council adopted the report titled "Providing City-Owned Space to Community Organizations at Below-Market Rent". In adopting this report, Council granted authority to enter into below market rent leases with 73 existing non-profit organization tenants provided there is no negative financial impact to the City, Heritage York was identified as one of the existing tenants.

<https://www.toronto.ca/legdocs/mmis/2007/cc/minutes/2007-11-19-cc14-mn.pdf>

<https://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-7803.pdf>

At its meeting on November 7, 8 and 9, City Council adopted the CST Policy. The CST Policy came into effect on January 1, 2018.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX28.8>

COMMENTS

The Tenant, Heritage York, is a community cultural organization comprised of volunteers with the goal of preserving the built and natural heritage of the former City of York. The organization's mission is to provide educational programs that increase people's awareness of the usefulness of local history, buildings and structures. The Tenant preserves and programs Lambton House, the last remaining landmark of Sir William Howland's Lambton Mills. Currently, a community cultural asset, the building is maintained by the Museums and Heritage Services section of the City's Economic Development and Culture Division.

The Tenant has occupied the Leased Premises as a tenant since 1991. An eligibility review and performance assessment for a CST Policy status was conducted by the Economic Development and Culture Division in September 2020. The Tenant was deemed eligible to continue occupying the Leased Premises as a tenant under the CST Policy. A Request for Expression of Interest was not deemed necessary in order to ensure the continuity of programs to the public. The continuation of the tenancy at the Leased Premises will assure that the Tenant remains a custodian of this important heritage asset.

Lambton House is a historic tavern/house (designated under the Ontario Heritage Act under By-law No. 4163-82, dated April 6, 1981), located on the east bank of the Humber River on Old Dundas Street. There was a tavern on the site since the 1820s. The building was renamed Lambton House by the Howland family in 1847 and was most likely designed and built by William Tyrrell of Weston. In 1989, the building was closed with the purchase of the property for the development of an apartment building. Through negotiations, it was reacquired by the City of York and is currently operated by Heritage York. Lambton House was designated a historic site in 1985 and was the focus of bi-centennial celebrations in 1993. The structure was restored in 1991 (with additional work done in 1994, 1998 and 2002) and it remains as the only surviving building from the era of the mills along the Humber. The completion of restoration work has allowed Lambton House to offer public programs.

Lambton House programming is available five days a week and includes free informational tours of Lambton House, the exhibits, historical room and travelers' room.

Throughout the year, a wide range of activities are included such as monthly heritage talks, workshops and special events, in particular Doors Open. Heritage walks take place on a periodic basis, annually for Hurricane Hazel night, Mother's Day, and recognition of Governor Simcoe. Monthly Pub Nights, Canada Day and other seasonal events take place, with no cover charge, and are presented by volunteers. The income earned by selling food and beverages support the Tenant's programs and services, as well as, the operation of Lambton House.

The Tenant is interested in expanding Lambton House at the rear of the building (reconstruction the north wing of Lambton House) in order to have programming and accessible storage space. Reconstructing the north wing would allow the opportunity to extend the Tenant's community usage and to transfer the archival collection of the former Municipality of York to Lambton House. The Tenant requires an official lease with the City in order to apply for public and private capital funding resources.

Municipal Capital Facility Designation

Section 252 of the City of Toronto Act, 2006 allows City Council to exempt from taxation for municipal and school purposes land or a portion of land on which a municipal capital facility is or will be located once the City enters into an agreement with the Tenant for the provision of the municipal capital facility.

The property tax exemption on the space leased by the Tenant will only apply if City Council agrees to provide a tax exemption, by way of a municipal capital facility agreement under section 252 of the City of Toronto Act, 2006. Ontario Regulation 598/06 prescribes facilities providing cultural, recreational or tourist purposes as eligible municipal capital facilities under section 252.

Upon the passing of the by-law authorizing the agreement and the tax exemption, the City Clerk must give written notice of the by-law to the Minister of Finance, the Municipal Property Assessment Corporation and the Secretary of any affected school board(s).

CONTACT

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SIGNATURE

Patrick Matozzo
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Acting General Manager, Economic Development and Culture

ATTACHMENTS

Appendix "A" – Major Terms and Conditions
Appendix "B" – Location Map

APPENDIX "A"

Major Terms and Conditions

Community Space Tenancy Lease at 4066 Old Dundas Street

Landlord:	City of Toronto
Tenant:	Heritage York
Commencement Date:	March 1, 2021 or on an earlier or later date as mutually agreed upon between the two parties
Leased Premises	Heritage property known municipally as 4066 Old Dundas Street otherwise known as Lambton House.
Basic Nominal Rent:	\$2.00 per annum.
Leased Area:	4,607 square feet of gross floor area.
Proportionate Share:	100%
Operating Costs:	Operating costs are currently estimated at \$15,383.00 per year for the year of 2020.
Net Lease:	The Lease shall be absolutely net to the Landlord. During the Term or any extension or renewal thereof, the Tenant shall be responsible for all applicable costs, taxes, charges, expenses and outlays of any nature whatsoever arising from or relating to the use and occupancy of the Leased Premises. Any obligation which is not stated to be that of the Landlord shall be the Tenant's responsibility. Capital improvements as defined under general accounting principles in accordance with Canada Revenue Agency's standards shall be the responsibility of the Landlord.
Service Level Agreement:	As per Community Space Tenancy Policy, the Tenant shall enter into and/or update as required, a Service Level Agreement with the corresponding City Programming Division.
Standard CST Lease Template:	The Lease shall be drafted on the City's standard Community Space Tenancy Lease template, which shall contain such further revisions and other terms and conditions as may be satisfactory to the Deputy City Manager, Corporate Services, and in a form acceptable to the City Solicitor.

Early Termination: The City shall have the right to terminate the Lease for any purpose at any time during the Term and any renewal/extension thereof upon providing the Tenant with sixty (60) day's prior written notice.

Use: The Leased Premises shall be used and continually operated throughout the Term for the purpose of promoting and carrying out its objects and activities to incorporate and provide services to improve the capacity heritage organizations within Ontario to research, record and share Ontario's history with Ontarians.

Insurance: Prior to the commencement of the Term and on an annual basis, the Tenant shall provide proof of insurance in accordance with the City's insurance requirements outlined in the Lease, including but not limited to comprehensive general liability insurance with limits of not less than Five Million Dollars (\$5,000,000.00) per occurrence.

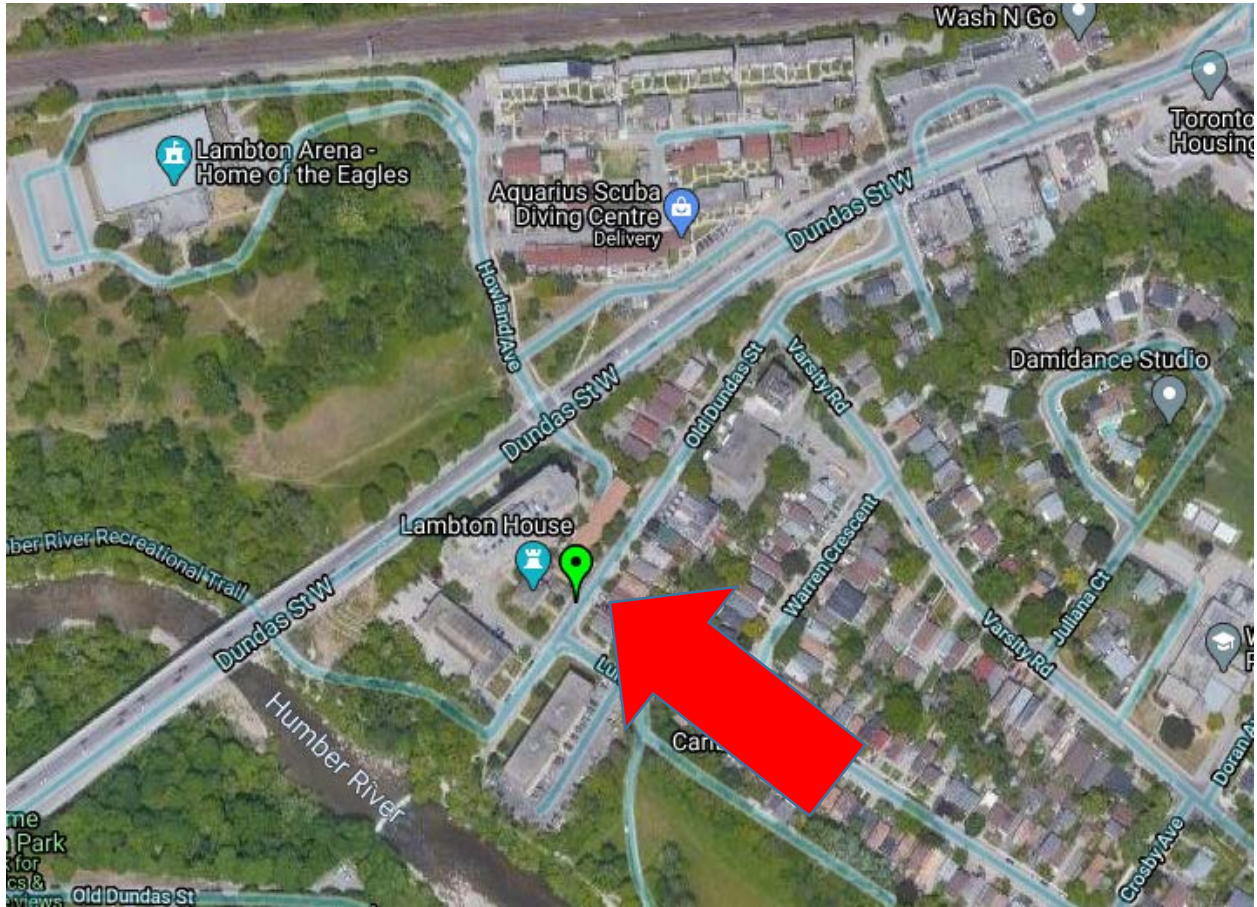
Indemnity by Tenant: The Tenant shall fully indemnify and save harmless the Landlord, its respective employees, agents and those for whom it is at law reasonable for of, from and against all claims whatsoever. The Tenant agrees that it will not pursue any claim against a third party which may result in any claim by such third party against the Landlord.

Assignment and Sub-leasing: The Tenant shall not sell, assign or otherwise dispose of its rights and obligations under the Lease or permit any other person or organization to occupy or use the Leased Premises, or any part thereof, or sublet the Lease Premises, or any part thereof, to a third party or in any way charge, encumber or pledge the Lease or its interest therein without the prior written consent of the Landlord, which consent may be unreasonably withheld or delayed and need not be based upon any financial considerations whatsoever.

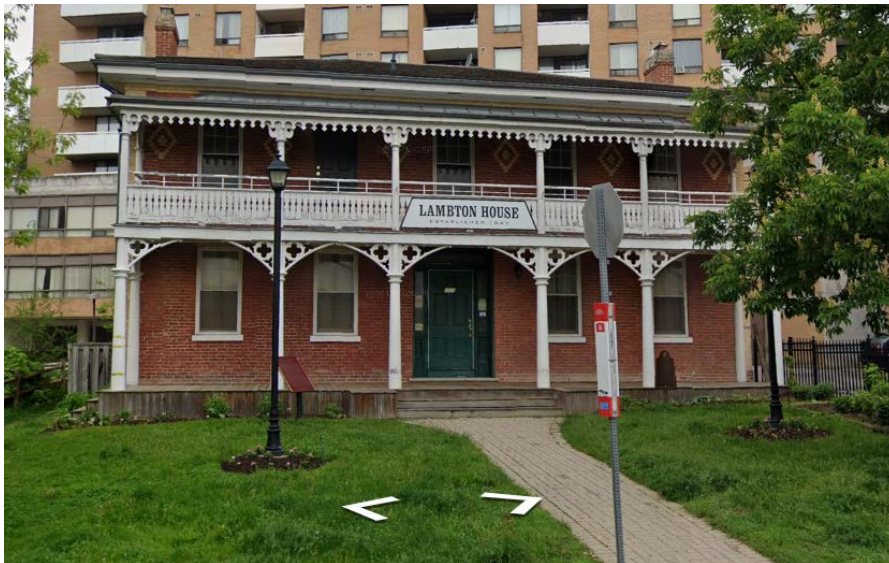
Condition of Leased Premises: The Tenant shall accept the Leased Premises in an "as is" condition.

APPENDIX "B"

Location Map: 4066 Old Dundas Street



Lambton House



Community Space Tenancy Lease 4066 Old Dundas Street