

Nominal Lease Agreement with It's Ok Community Arts – 468 Queen Street West

Date: March 8, 2022

To: General Government and Licensing Committee

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

Wards: 10 - Spadina-Fort York

SUMMARY

The purpose of this report is to obtain Council authority for the City to enter into a nominal lease agreement for a two-year term (the "Lease") with the not-for-profit music organization It's Ok Community Arts (the "Tenant" operating as "It's OK*") for use of the property located at 468 Queen Street West (the "Leased Premises") for the purpose of providing emerging musicians and grassroots music organizations a hub for rehearsal, talent development, and presentation with ancillary administrative uses. The Leased Premises was acquired by the City in late 2021 for the purpose of creating a future City public park. The proposed Lease will allow for an interim use of the property until the City is ready to proceed with development of the new park. The new park, including 468 Queen Street West, 464-466 Queen Street West and a portion of 15 Denison Avenue, will be developed at the conclusion of the Lease in 2024.

The Tenant is a not-for-profit organization that works with Black, Indigenous, and racialized musicians, promoters and presenters to develop talent and capacity. The term of the Lease is less than five years, making the space incongruous with the City's Community Space Tenancy program.

RECOMMENDATIONS

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

1. City Council authorize the City, as landlord, to enter into the Lease with the Tenant for the building located at the Leased Premises substantially on the terms and conditions set out in Attachment 1 of this report, and on such other or amended terms and conditions as may be deemed appropriate by the Executive

Director, Corporate Real Estate Management, or their designate, in consultation with the Interim General Manager, Economic Development and Culture, and in a form acceptable to the City Solicitor.

2. City Council authorize each of the Executive Director, Corporate Real Estate Management, and the Director, Transaction Services, Corporate Real Estate Management severally to execute the Lease, and any related documents on behalf of the City.

3. City Council authorize the City Solicitor to complete the Lease transaction on behalf of the City, including amending the commencement date of the Lease and other dates, and amending terms and conditions, on such terms as the City Solicitor deems advisable.

4. City Council authorize the Executive Director, Corporate Real Estate Management, or their designate, in consultation with the Interim General Manager, Economic Development & Culture, to administer and manage the Lease including the provision of any amendments, consents, approvals, waivers, notices, and notices of termination, provided that the Executive Director, Corporate Real Estate Management may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction.

FINANCIAL IMPACT

The Lease will be provided for nominal rent and in accordance with the terms of the Lease, the Tenant will be responsible for all fit-up, maintenance and operating costs, and property taxes, related to Leased Premises. The interim use of the property greatly reduces carrying costs of the property until the City commences construction of the new park.

If the City does not enter into the Lease with the Tenant, annual estimated operating costs of the Leased Premises are approximately \$126,123 based on 2021 estimated occupancy costs provided by the previous owner which includes property taxes, utilities and insurance. The City however would be exempt from property taxes by seeking a Municipal Capital Facility designation, and utilities would be expected to be less in a non-operational building. Additional costs such as security patrols (approximately \$500 per month) are currently being incurred by the City.

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

DECISION HISTORY

At its meeting on February 2, 2022, City Council directed the General Manager, Economic Development and Culture, in consultation with the Executive Director, Lease Agreement with It's Ok Community Arts for 468 Queen Street West

Corporate Real Estate Management, the Chief Executive Officer, CreateTO and other relevant City divisions, to develop the terms of a pilot program for for-profit and/or not-for-profit cultural rehearsal studio and production space operators, to identify an inventory of City-owned properties suitable for lease and to develop key terms and conditions of a lease agreement to lease such spaces at below-market rates.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.EC27.5>

The City acquired the Leased Premises by way of a fee simple acquisition on December 15, 2021 as authorized by Delegated Authority Form No. 2021-109 dated March 22, 2021 as part of a City led land assembly for the creation of a new public park that includes an off-site parkland dedication at 466 Queen Street West and a portion of the municipal parking lot at 15 Denison Avenue, located immediately north of the Leased Premises.

<https://www.toronto.ca/wp-content/uploads/2021/05/8e9d-2021-109468-Queen-St-W.pdf>

At its meeting on June 29, 2020, City Council directed the General Manager, Economic Development and Culture, to work with the Executive Director, Corporate Real Estate Management, to develop the terms of a pilot program for DIY (Do-It-Yourself) music organizations to use City-owned spaces at lower than market value and report to the September 24, 2020 meeting of the Toronto Music Advisory Committee.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EC12.12>

COMMENTS

Acquisition of the Leased Premises by the City and Planned Use

In late 2021, the City completed the purchase of the building and lands at 468 Queen Street West (the "Leased Premises") for the purpose of creating a future City public park in combination with adjacent City-owned lands. The two-story building has ground floor retail space fronting Queen Street West, previously housed the SVP sporting goods store, and will be demolished when the construction of the new park commences. As the building has been occupied until now, it is in a reasonable state of good repair.

The future park is planned as part of a larger transformation of the area to include affordable housing and cultural space including additional properties at 464-466 Queen Street West and 15 Denison Avenue, which are adjacent to the Leased Premises. 464-466 Queen Street West will be conveyed to the City as an off-site parkland dedication and 15 Denison Avenue is a City-owned Toronto Parking Authority lot being redeveloped under the management of CreateTO. Due to the complexities of the multiple properties involved, demolition and construction is not anticipated to begin until 2024. A short-term lease during this period will avoid a prominent vacancy on a main street retail site and cover the operating costs of the building.

Process for Selecting a Tenant

The City's Community Space Tenancy Policy sets out that leases are to have terms of five (5) years. Due to the anticipated parks improvement work in 2024, the term of the Lease does not meet this threshold, and as such, the Community Space Tenancy Policy process was not employed. Due to the brevity of the lease term, and the building's planned demolition, staff determined the Leased Premises would likely not attract interest from commercial tenants who would need to make significant investments in the fit-up and fixtures to serve business purposes.

In response to the crisis of space in the cultural community, and in particular, the D.I.Y. ("Do-it-yourself") music community, City staff contacted grassroots D.I.Y. music organizations directly to determine interest. This approach was also recommended in response to a Council motion directing staff in Economic Development and Culture and Corporate Real Estate Management to develop an inventory of suitable City-owned properties and the terms of a pilot program for D.I.Y. music organizations to use such spaces at below market rent. The location of the Leased Premises, its proximity to live music venues and a concentration of musicians in the city was a consideration, as well as existing zoning.

The outreach to grassroots music organizations was guided by extensive consultations led by Economic Development and Culture's Music Office in 2018 to 2020. These consultations sought information and insight from approximately 30 D.I.Y. music event organizers, festivals, conferences, artist entrepreneurs, and other stakeholders, all of whom represent elements of Toronto's grassroots music community. Consultations focused on these groups' need for space, with specific questions about ideal building size, location, features, and costs, together with discussions about potential business and programming models. Staff learned about organizations' administrative and financial capacities, as well as their mandate and goals, connectivity to other music community groups, and readiness to take on a commercial lease and interest in doing so.

Based on information gathered in these consultations, in early August 2021, staff contacted 17 organizations about the opportunity at 468 Queen Street West. The outreach included basic information about the opportunity (location, square footage, approximate monthly costs, noting open questions regarding insurance and exact duration of proposed lease) and requested that groups consider not just their own interest in the opportunity, but also pass along information to any other community groups they felt might also be interested. Groups were also asked to assess their interest in aligning with other organizations to share tenancy, with one designated lead tenant.

Of the 17 organizations contacted, eight indicated preliminary interest in learning more, and six took part in one of two site walkthrough tours organized by staff in September 2021. Of the six groups that took part, only It's OK* signaled interest in considering a role as lead tenant, after consulting with its own stakeholder community. It's OK* then proceeded to investigate the possibilities for short-term use with staff.

It's OK* works with Black, Indigenous, and racialized musicians, promoters and presenters to develop talent and capacity. Its plan for the Leased Premises is strongly oriented towards the D.I.Y. music community and providing rehearsal space for musicians, which has become an urgent need for musicians especially within the last year. Community input was sought through stakeholder meetings and at a recent D.I.Y. music conference produced by local arts not-for-profit Long Winter on November 26 and 27, 2021. Affordability and flexibility of the Leased Premises were considered to be essential components to making the space accessible.

A preliminary business plan has been developed by the Tenant which requires minimal fit-out of the space and the ability to cover base occupancy costs. It anticipates a mix of earned revenues, grants, and in-kind donations of some equipment and furnishings. Inter-divisional City staff have reviewed and are satisfied with the proposal

Proposed Lease and Next Steps

Based on the business plan submitted by the Tenant, staff recommend City Council authorize the City to enter into the Lease. By moving forward with the recommendations, the Tenant can proceed to engage with the music community and have the Leased Premises ready for public use in mid-2022.

CONTACT

Alison Folosea, Director, Transaction Services, Corporate Real Estate Management
416-338-2998, Alison.Folosea@toronto.ca

Mike Tanner, Program Manager Music Sector Development, Economic Development and Culture, 416-338-3255, Mike.Tanner@toronto.ca

SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

Cheryl Blackman
Interim General Manager, Economic Development & Culture

ATTACHMENTS

Attachment 1 - Proposed Lease Terms and Conditions

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Landlord: City of Toronto

Tenant: It's Ok Community Arts

Property: 468 Queen Street West

Leased Area: Floor Plan shown in Schedule A

Floor	Floor Area (square feet)
Basement	3,600
Ground Floor	3,600
2nd Floor	3,600
Total	10,800

Permitted Use:

- Public Facing - Live music/arts/culture/entertainment (must not exceed 400 square metres of interior floor area)
- Studio and Administrative space

Basic Rent: Nominal

Tenant's Maintenance: The Tenant shall be responsible for all routine maintenance and repair of the Property as would a reasonable and prudent operator of a similar Property. The City will not be responsible to incur cost for any maintenance or repair of the Property.

"As is" Condition: the Tenant acknowledges that it has examined the Property and accepts the Premises in an "as is, where is" condition and shall not require the City to pay for or do any work.

City's Maintenance: The City shall at all times keep or cause to be kept in good order and condition: (a) the foundation, bearing walls, structural columns and beams and other structural components; (b) the outside of all exterior walls; (c) the roof; (d) the plumbing, drains and utility services leading up to the Property.

Additional Rent: The Tenant will be responsible to register billing accounts with the respective Water, Hydro, Gas and telecommunications utility companies and pay for all costs directly to the utility providers. The Tenant shall be solely responsible for any costs associated with the operation and upkeep of the Property and that the City is not responsible during the Term for any costs, charges, expenses and outlays of any nature whatsoever arising from or relating to the use and occupancy of the Property.

The Tenant will be responsible for all Realty Taxes. The City shall support any Tenant applications for any charitable and/or property tax subsidies for which the Tenant might be eligible.

Term: 2 years less 8 days, commencing April 8th, 2022 and expiring March 31, 2024
Upon expiration of the term, the lease will continue into an Overhold period until the termination notice takes effect.

Termination: City of Toronto to provide 6 month termination notice for the tenant to remove equipment and materials and cease operations to begin demolition for new park. City of Toronto retains the right to terminate immediately in the event the tenant has violated the term of the lease.

Fit up work: All Fit up work to be completed by tenant. The City will take before and after pictures of the space

Insurance: The Tenant shall obtain Commercial General Liability, Property & Business interruption insurance and any other forms of insurance as required by the City, all in the amounts required by and to the satisfaction of the City.

Indemnity: The Tenant will indemnify and save harmless the City from and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever, directly or indirectly resulting from occupation of or use of the Property.

City Rights: The City shall be entitled to post signs in the window related to the future park development (community engagement, construction notices etc.) at its discretion. The City and its consultants will be able to inspect the Property and undertake preparatory work as necessary with at least 48 hours' prior notice to the Tenant. Efforts will be made to avoid disruption to the tenant's operations

Non-profit status: Prior to execution of Lease agreement, It's Ok Community Arts submit confirmation that organization is registered as a not-for-profit entity under the Canada Not-for Profit Corporations Act. The Tenant covenants that, upon execution of Lease agreement and throughout the Term, it shall remain a not-for-profit entity and shall submit annual evidence that not-for-profit status remains intact.

Environmental: The Tenant shall not allow any hazardous or toxic waste or substances to be used or stored on the Property except in strict compliance with environmental laws. The City is not liable for the use or any such substances on the Property.

Tenant's Work: The Tenant shall undertake and pay all costs related to any work required in order to render the Property suitable for its occupation. The Tenant shall comply with the City's Fair Wage Policies and Labour Trades Contractual Obligations in the Construction Industry, as same may be amended from time to time.

Restoration: The Tenant to remove equipment and materials at the end of term.

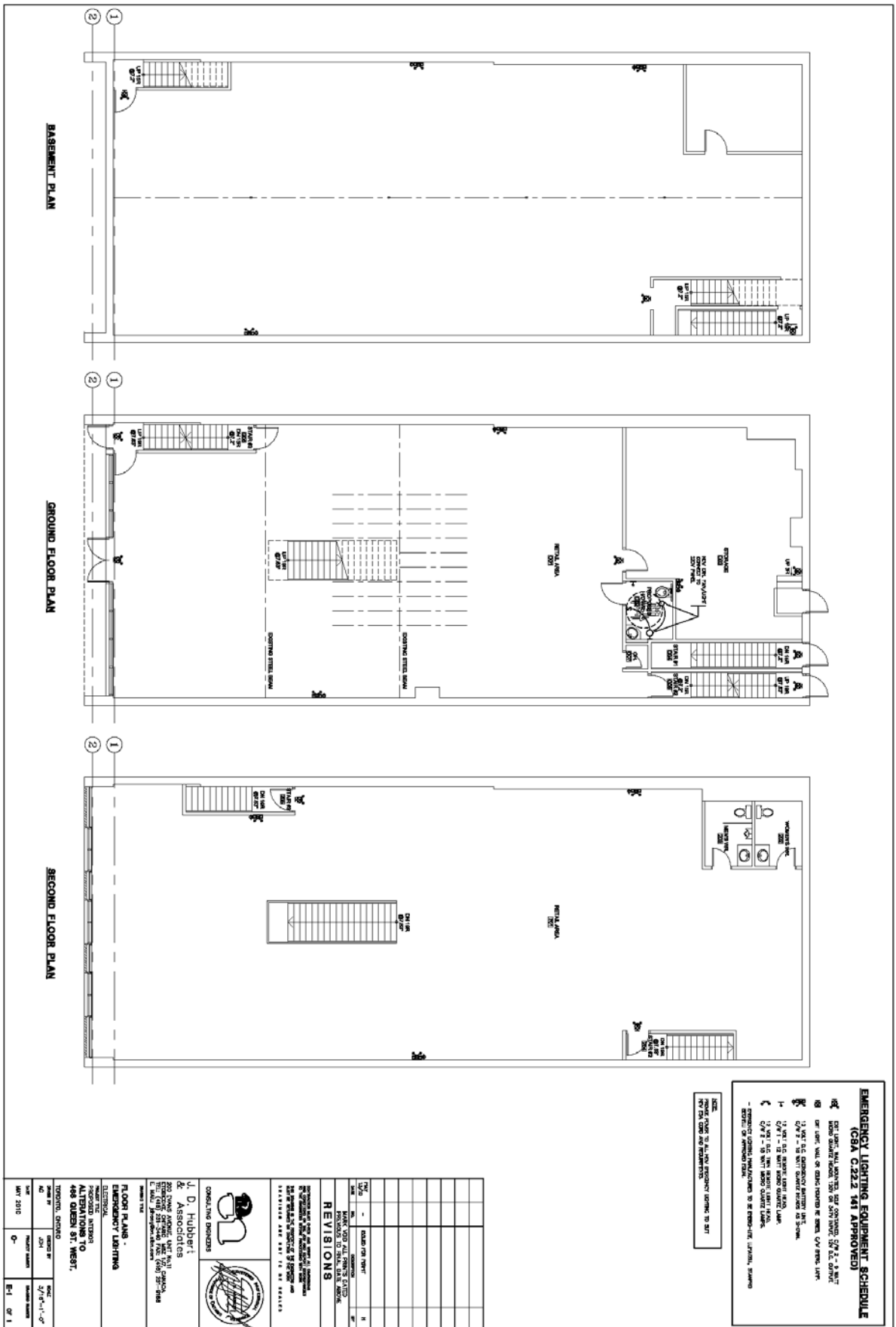
Subleasing / Assignment: The Tenant has no right to sublease or assign the lease obligations.

Signs: The Tenant shall not paint, display, inscribe, place or affix any sign, picture, advertisement, notice, lettering or direction on any part of the outside of the Property or any other location that is visible from the outside of the Property without the prior consent of the City, which consent shall not be unreasonably withheld.

Compliance with Laws: The Tenant is responsible at all times to comply with and to keep the Premises in accordance with all applicable laws, directions, rules, regulations or codes of every governmental authority having jurisdiction.

Lease Completion: The Lease shall be prepared by the City on the City's standard form and shall incorporate the terms of this term sheet. All documentation shall be in a form and content satisfactory to the City Solicitor.

Schedule A - Interior Floor Plan



Least West

Schedule B - Aerial View

