



June 13, 2016

To: The Board of Governors of Exhibition Place

ACTION REQUIRED

From: Business Development Committee

Subject: **Lease for Tenancy within the Queen Elizabeth Executive Offices**

Summary:

This report details the competitive Request for Proposals (RFP) process undertaken with respect to the development of and tenancy within the Queen Elizabeth Executive Offices. Following approval and direction of the Business Development Committee in December 2015, the RFP was issued on January 7, 2016 through the City of Toronto Purchasing Department; three parties attended the site meeting; the RFP closed on February 17, 2016; and two parties submitted a proposal, the Canadian National Exhibition Association (CNEA) and 1673081 Ontario Ltd. who is the current tenant operating the Fountainblu Banquet facility and the Queen Elizabeth Theatre.

Following interviews with the two proponents and a detailed review of the proposals in accordance with the criteria established in the RFP, the CNEA proposal received the highest overall score based on their proposed use and financial return to the Board. Accordingly, this report is recommending entering into a four year lease with the CNEA for the Queen Elizabeth Executive Offices.

The CNEA intends to refurbish and program the lease space into a fluid, multi-purpose office and community event space to be utilized during the annual Fair and the balance of the year. During the annual Fair, a key use would be the relocation of the CNEA's customer service areas to the space in an effort to enhance guest experience. Throughout the year, the space will be used to stage intimate and exclusive workshops and events focusing on the CNEA's strategic areas of innovation, urban agriculture, environment, sustainability and arts and culture with an aim to complimenting the existing Fair programming and acting as a community hub for these strategic directions. These initiatives would assist in promoting year-round visits to Exhibition Place and encourage further integration of Exhibition Place within the community.

Recommendations:

It is recommended:

- 1) That the Board not approve any leases with new Tenants (including the lease with the CNEA for the Queen Elizabeth Executive Offices) pending the outcome of the Board's Strategic Planning Session and the recommendations of City Planning's recommendations regarding Exhibition Place; and**
- 2) That the Board direct that the confidential report contained in Attachment 1 to this report not be released publicly in order to protect the competitive position, future economic and legal interests of the Board and the City.**

Financial Implications:

Approval of this agreement between the Board and the CNEA will have a financial benefit of increased guaranteed rental revenues / investment in capital upgrades / decreased operating costs for the Board which financial benefits total \$1.235M over the 4 year term.

Decision History:

As a part of the 2014 to 2016 Strategic Plan, Exhibition Place has a goal to *seek additional revenue opportunities* and as a strategy to *seek new and/or expand revenues from tenants / naming partners / third parties / existing operations*.

At its meeting of November 27, 2015, the Business Development Committee considered a report with respect to a proposed Request for Proposals for Queen Elizabeth Executive Offices which was deferred to its meeting of December 16, 2015. At that meeting the Business Development Committee adopted a report to issue an RFP for Queen Elizabeth Executive Offices, and further approved an amendment to the proposed RFP document to limit the lease term to end no later than December 31, 2020 which would be contiguous with the tenancies in the other areas of the Queen Elizabeth Building.

At its meeting of May 13, 2016, the Business Development Committee considered a report from the CEO which included the following recommendation:

“Enter into an lease agreement with CNEA for the Queen Elizabeth Executive Offices for a four (4) year term commencing November 1, 2016, substantially on the terms and conditions outlined in this report and in Appendix “A” and the Confidential Attachment 1, and other such terms and conditions satisfactory to the Chief Executive Officer and the City Solicitor”

At its meeting of June 10, 2016, the Board deferred the Lease for Tenancy within the Queen Elizabeth Executive Offices to the July 28th meeting of the Board pending a presentation from the Chief Corporate Officer of the City of Toronto at which time subject report will be reconsidered by the Board.

Issue Background:

The Queen Elizabeth Executive Offices within the Queen Elizabeth Building is on the west side of the grounds near Dufferin Street and facing the Princess Margaret Fountain. Constructed in 1957, the building served as the corporate head office for the CNEA and the Board of Governors until August 2014. The 10,192 sq. ft. office consists of a reception and lobby area, 15 separate offices, an open area that has 18 open work cubicles which are still in place, a meeting room, lunch room, photocopy room and a walk-in vault. The building, listed on the inventory maintained by Heritage Toronto Preservation Services, is adjoined to the Queen Elizabeth Theatre and the Fountainblu Dining Room is located on the second floor above the office space. Both the Queen Elizabeth Theatre and Fountainblu Dining Room are leased by the Board to 1673081 Ontario Ltd. which leases also terminate in the year 2020.

The RFP document required all proponents to accept the Queen Elizabeth Executive Offices “as is” and be responsible for all tenant improvements and its share of operating costs. Any lease was to be a “net net” lease to the Board. When occupied by Exhibition Place staff, annual operating costs including utilities for these offices were in the range of \$0.135M.

Generally, with the tenancy of these offices, all buildings / premises from this location to the western boundary of the Exhibition Place site will now be leased to third parties. The only area in the Queen Elizabeth Building still occupied by the Board is for Parking services which are due

to be relocated by the end of 2016 to the General Services Building. The Queen Elizabeth Hall on the east side will continue to be managed by Exhibition Place as active exhibit / event space.

Comments:

On March 10, 2016, a Selection Committee consisting of staff from Exhibition Place and City of Toronto Finance Department, evaluated both proposals received in accordance with the RFP evaluation matrix which reviewed qualifications, proposed use, leasehold improvements, capital investments and basic guaranteed rent revenue to the Board. In addition, each of the proponents were interviewed by the Selection Committee. Following its evaluation, the Selection Committee is recommending the CNEA as the preferred proponent having received the highest overall score based on their proposed use and financial return to the Board.

The CNEA is a legal entity without share capital created by Special Acts of the Legislature of Ontario. The CNEA is deemed to be an Agricultural Society as provided in the *Agricultural and Horticultural Organizations Act of Ontario*. The CNEA manages and operates an annual exhibition, the Canadian National Exhibition. With 138 years of experience in producing public events, the CNEA is looking at returning to the Queen Elizabeth Executive Offices which has historic ties to the CNEA organization. Prior to 1986, this building was the head offices for the CNEA which managed the grounds on behalf of the City. The mosaic floor in the entrance lobby to the offices built in 1957 is a work of art and a representation of the CNEA trademarks at that time is embedded directly in the flooring.

The CNEA will refurbish and program the space and would convert it into a fluid, multi-purpose office and community event space to be utilized during the annual fair and balance of the year. During the annual Fair, the CNEA would relocate customer service areas such as guest relations in the building and provide offices for security and audit services all in an effort to enhance guest experience and facilitate improved site planning. The main space will be used to stage intimate and exclusive workshops and events in the CNEA's strategic areas of innovation, urban agriculture, environment, sustainability and the arts and culture in order to complement the existing programming of the CNE. During the year, the building will serve as a community hub in which the CNEA will host community workshops and interactive events. These initiatives would assist with promoting year-round visits to Exhibition Place and further help to integrate the venue within the community.

The CNEA will be investing \$0.295M in leasehold improvements including upgrades to the reception, lobby and central common area, painting, kitchen, flooring, washrooms and lighting. Wherever possible, leasehold improvements will focus on sustainable choices in an effort to "green" the environment with consideration being given to installation of a living wall; utilizing existing concrete floors; low/no emissions paint; and eco-friendly flooring. All these initiatives fit within the Board's Environmental Mandate/Requirements.

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Submitted by:

Business Development Committee

Appendix "A"

Substantial Terms and Conditions of a Lease Between
Canadian National Exhibition Association ("Tenant") and
Board of Governors of Exhibition Place ("Board")

- (1) Leased Property – The Queen Elizabeth Executive Offices and ancillary areas such as the Main Floor Lobby, as shown on the attached Schedules "A" and "B" of the attached Term Letter, subject however to the following rights reserved by the Board:
- The right of the Board, its authorized employees and agents to pass through the Leased Property to gain access to the IT Hub room shown on Schedule "B" for the operation, maintenance, repair, removal and replacement of equipment contained therein. Such rights will be exercised on not less than 24 hours' prior notice to the Tenant, except in the case of emergency, when no notice shall be required
 - The right of the Board, the tenant(s) of the Queen Elizabeth Theatre and the Fountain Dining Room and their employees and invitees, to use the corridor at the rear of the Leased Property as an emergency exit from those premises
- (2) Permitted Use: The Leased Property shall not be used by the Tenant for any purpose other than as submitted in the Canadian National Exhibition Association Proposal dated February 17, 2016 (the "Principal Use") being office space; event space during the annual CNE Fair; workshop and lecture space during the year; community hub space focused on the advancement of urban agriculture, innovation incubator, awareness of environmental/sustainability issues and showcase for local arts and culture. The Tenant is responsible at all times to comply with and to keep the Leased Property in accordance with the requirements of all applicable laws, directions, rules, regulations or codes of every governmental authority having jurisdiction.
- (3) Prohibited Uses – The use of the Leased Property by the Tenant shall be subject to all existing contractual obligations of the Board respecting the use of the Exhibition Place lands, including "Existing Rights", granted with respect to the Ricoh Coliseum Arena (Maple Leaf Sports and Entertainment Ltd.), BMO Field (Maple Leaf Sports and Entertainment Ltd.), Ontario Government Building (Liberty Grand Entertainment), Horticulture Building (Muzik), Gossip Restaurants, QE Theatre, QE Fountain Dining Room and, the Leased Property shall not be used for any of the following purposes:
- (a) a themed dinner theatre;
 - (b) trade and consumer shows and any activities (including the provision of food and beverages) related to trade and consumer shows;
 - (c) meetings, conferences and conventions;
 - (d) a banquet facility
 - (e) professional sports events;
 - (f) a casino; and
 - (g) an indoor live performance venue/nightclub providing live and recorded musical entertainment.
- (5) Term: Four (4) years, less one day, commencing on November 1, 2016, and ending on October 30, 2020. There shall be no right of renewal for the Tenant.
- (6) Schedule of Dates during the Term:
- (a) Possession Date: November 1, 2016
 - (b) Leasehold Improvements and Pre-Construction/Construction Period: November 1, 2016 to January 31, 2017
 - (c) Rent Commencement Date: February 1, 2017
- (7) Deposit: Following approval of the Board, and upon execution of this Term Letter, the Tenant shall provide to the Board a deposit in the form of a certified cheque in the amount CDN\$10,000.00 which shall be held as a security deposit and returned to the Tenant, without interest, at the end of the Term. If the Tenant and the Board fail to enter into a Lease, the Board will return the Deposit to the Tenant without interest

- (8) Rent: The Tenant shall pay the following on an annual basis: As set out in the Confidential Attachment I.
- (9) Definition of Additional Rent: "Additional Rent" means:
- (a) all costs of development and renovation/construction of the Leased Property to be paid by the Tenant to the appropriate and proper parties as contemplated in the Lease Agreement;
 - (b) all taxes, rates, local improvement rates, duties or assessments which may be levied, rated, charged or assessed against the Leased Property or any parts thereof, whether real or personal property, by any authority having jurisdiction, and any taxes which may be imposed by such authority on the Board, the City and/or the Tenant or anyone else with respect to the Leased Property;
 - (c) all costs of utilities and supplies for the Leased Property, including electrical power and all costs of operation, maintenance, replacement and repair of the Leased Property except as otherwise provided in this Term Letter or in the Lease Agreement;
 - (d) all costs, expenses and charges incurred in and about the operation and management of the Leased Property except for such costs, expenses and charges which are required to be paid by the Board pursuant to this Term Letter or the Lease Agreement; and
 - (e) any and all sums of money or charges required to be paid by the Tenant under this Term Letter or the Lease (except for Annual Base Rent) whether or not designated as "Additional Rent" or whether or not payable to the Board or to any other person.
- (10) Interest: interest on overdue payments shall be subject to interest at a rate which is three (3) percentage points above the prime rate charged by The Toronto-Dominion Bank prevailing from time to time.
- (11) Taxes and Costs: The Tenant acknowledges that the Lease will be fully net to the Board, and that the Tenant shall pay all Taxes and the costs of all operating the Leased Property including, but not limited to, supplies, utilities, services, maintenance and repairs, auditing, security and insurance associated with and required for its operation, use and occupation of the Leased Property.
- (12) Definition of Taxes: "Taxes" shall means all taxes, assessments or levies, whether general or special, ordinary or extraordinary, foreseen or unforeseen, of whatever nature or kind, which are from time to time levied, assessed, charged or imposed by any taxing authority or any government, municipal or other body having jurisdiction upon or against the lands comprising Exhibition Place or which may give rise to a remedy against the lands.
- (13) Leasehold Improvements: The Tenant accepts the Leased Property "as is", and agrees that it shall be solely responsible for the cost of construction of any improvements or structures required for the purposes of its use and occupation of the Leased Property, subject to the prior approval of the Board.
- (14) Closure of the Exhibition Place Lands/Leased Property:
- (a) The Tenant acknowledges that from time to time during the Term, Exhibition Place may be totally closed to the public on a temporary basis and/or an admission fee may be charged to enter the Exhibition Place. At such times, special provision will be made by the Board to facilitate access to the Leased Property by the Tenant.
 - (b) Closure for CNE: Despite clause (a) the Tenant acknowledges that the Board shall have the right, during the annual CNE, to close the grounds of Exhibition Place, and to interfere with, interrupt or prevent access to the Leased Property. During the CNE, the Board will facilitate access to the Leased Property by Tenant's staff for essential business operations only.
 - (c) Closure for Honda Indy Toronto: Despite clause (a) the Tenant acknowledges that the Board shall have the right, during the annual Toronto Honda Indy weekend (Wednesday starting at noon, Thursday, Friday, Saturday, Sunday with

a possible Monday “rain-day”), to close the grounds of Exhibition Place, and to interfere with, interrupt or prevent access to the Leased Property except in cases of emergency within the Leased Property. In addition, the Tenant acknowledges that in the seven (7) to ten (10) weeks in advance of the actual race weekend, the typical Honda Indy Toronto layout being constructed around the Leased Property

- (d) Closure of Queen Elizabeth Executive Offices: Despite clause (a) the Tenant acknowledges that the Board shall have the right, during or in connection with any future Olympics, Pan Am Games, World’s Fair or any similar such event to close the grounds of Exhibition Place, and to interfere with, interrupt or prevent access to the Leased Property. During such events, the Board will facilitate access to the Leased Property by Tenant’s staff for essential business operations only.
 - (e) The Board will give the Tenant notice in writing not less than six (6) months prior to any proposed closing for the purposes set out in clause (d).
 - (f) If access to the Leased Property is prevented for any length of time due to any reason under clauses (a), (b) or (c), there shall be no abatement or reduction in Annual Base Rent or Additional Rent, nor shall the Tenant receive any compensation for loss of business or claim of any kind. In the event that access to the Leased Property is prevented under clause (d), the Tenant shall be entitled to an abatement of the Annual Base Rent applicable to the period for which access is denied, which shall be the only relief or compensation to which the Tenant shall be entitled under the Lease. If access to the Leased Property is prevented for any length of time due to reasons of "force majeure" or any other reason not within the control of the Board, there shall be no abatement or reduction of Annual Base Rent or Additional Rent, or any compensation for loss of business or claim of any kind.
- (15) Collective Agreements:
- (a) The Tenant acknowledges that the Board has collective agreements with the following local unions and the Tenant will take all necessary action in the construction and operation of the Leased Property not to put the Board in breach of any of these agreements:
 - i. Labourers’ International Union of North America, Local #506 (Material Handling/Cleaning);
 - ii. The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local Union 46;
 - iii. The International Alliance of Theatrical Stage Employees and Moving Picture Technicians, Artists and Allied Crafts of the United States and Canada, Local #58, Toronto;
 - iv. The Ontario Provincial Council, United Brotherhood of Carpenters and Joiners of America (O.P.C.), Local Union 27;
 - v. Canadian Union of Public Employees, Local 2840 (Parking Services);
 - vi. International Brotherhood of Electrical Workers, Local Union 353;
 - vii. Canadian Union Public Employees Local 5116 (Security); and
 - viii. International Brotherhood of Painters and Allied Trade District Council 46.
 - (b) The Tenant agrees that it shall comply with the foregoing collective agreements and any future collective agreements to which the Board becomes bound with respect to the operation of the Leased Property (collectively the “Collective Agreements”). The Board agrees to provide written notice to the Tenant of the Collective Agreements together with a copy thereof and copies of any amendments to such Collective Agreements, any grievances filed thereunder with respect to operation of the Leased Property and ongoing status reports with respect to such grievances thereafter. In addition, in the event a party successfully asserts through the grievance and arbitration procedure of a

Collective Agreement that the Board is in breach thereof and said breach was caused solely by the Tenant's failure to comply with same, then the Tenant shall indemnify the Board in respect of an arbitration award rendered by an arbitrator, Ontario Labour Relations Board or other adjudicative body with jurisdiction to make such an award against the Board to the extent directly resulting from such Tenant's breach notwithstanding that such grievance is filed after termination or earlier expiry of this Lease provided such grievance is filed within the time limits set out in the applicable Collective Agreement or as otherwise permitted by Applicable Laws and relates to that period of time the Lease was in effect.

- (c) The Tenant further acknowledges that some work performed at Exhibition Place is governed by provincial collective agreements. Provincial ICI (Industrial, Commercial and Institutional) certification is possible in relation to construction work related to the collective agreements described in (i) – (viii) above, resulting from negotiations which are not controlled or negotiated by the Board. In the event a union successfully asserts through the grievance and arbitration procedures of the collective agreement that the Board is in breach thereof, and if the said breach was caused solely by the Tenant's failure to comply with same, then the Tenant shall make the Board whole in respect of an arbitration award rendered by an arbitrator against the Board to the extent directly resulting from the Tenant's breach of its obligations under the Lease.
- (16) Restrictions/Conditions:
- (a) The Tenant shall familiarize itself with the Central Waterfront Secondary Plan and/or the initiatives of the Toronto Waterfront Revitalization Task Force, and acknowledges that the Board may require that the use and occupation of the Leased Property conforms with all policies and processes that City Council may adopt as a result of the Waterfront Revitalization, except where such use may be specifically exempted by City Council;
 - (b) The Lease shall be prepared by the Board and shall incorporate the terms of this proposal. The Tenant agrees to execute the Board's form of Lease prior to taking possession of the Leased Property;
 - (c) The Tenant acknowledges and agrees that the Board shall, except as set out herein, retain sole and exclusive claim to all sponsorship rights, including naming rights and signage, within all public spaces and grounds and upon all existing and proposed buildings within Exhibition Place, including the Queen Elizabeth Executive Offices. The Tenant shall have rights to install identification (but not commercial or third-party advertising) signage on the exterior of the Foyer and entrance to Queen Elizabeth Executive Offices, and within the Leased Property itself, and all such signage shall be subject to the approval of the Board;
 - (d) The Board will provide non-exclusive non-reserved parking for the Tenant's visitors/attendees except during the period of the CNE and the Honda Indy Toronto. The Tenant acknowledges that the Board may impose charges for visitors/attendees parking at Exhibition Place, and the Board shall retain all revenues from the operation of all parking facilities (surface and underground) owned and operated by the Board;
 - (e) The Tenant shall comply with all governing policies, bylaws, regulations and conditions that may be imposed from time to time by the Board and the City;
 - (f) If applicable, the Tenant must obtain its own liquor license for the sale of alcoholic beverages and must comply with all regulations, bylaws and polices related to that license.
 - (g) The Tenant agrees that the Board has collective agreements with the above listed local unions and the Board retains the rights to provide such services to the Tenant if requested. However, if the Board at its sole discretion do not provide such requested services, the Tenant can choose to arrange its own service delivery from third party providers providing the Tenant shall comply with the foregoing collective agreements and any future collective agreements to which the Board

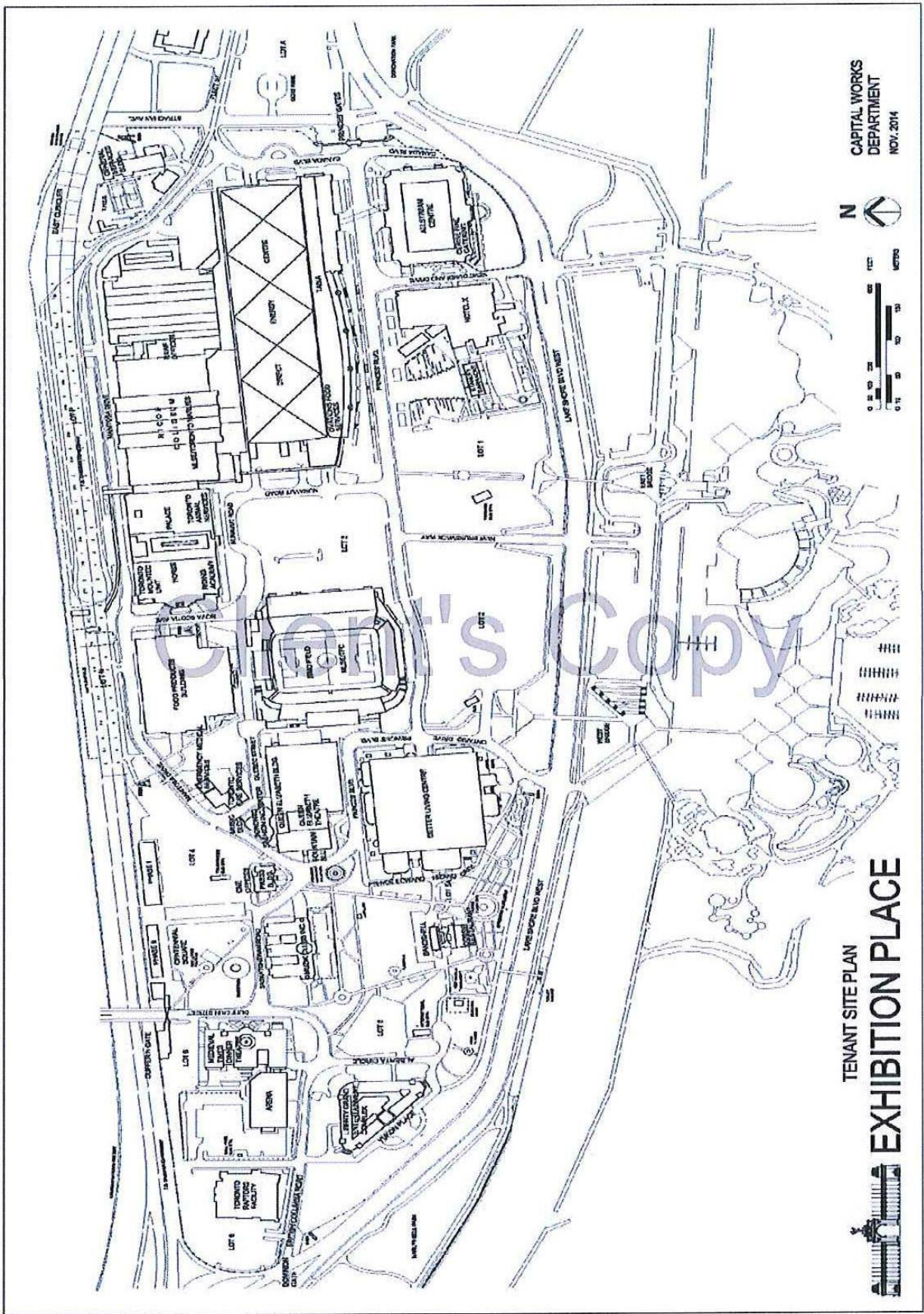
becomes bound with respect to the operation of the Leased Property (collectively the "Collective Agreements"). If the Board agrees to provide the requested services for any trades, the Tenant agrees to pay for the actual cost of labour inclusive of payroll benefits and materials plus an administrative markup of twelve (12) percent.

- (h) The Tenant acknowledges and agrees that the Board shall, except as set out herein, retain sole and exclusive rights to all sponsorship, naming and signage rights for all public spaces, grounds, and all existing and proposed buildings within Exhibition Place, including the Queen Elizabeth Executive Offices. The Tenant shall have rights to install identification (but not commercial or third-party advertising) signage on the exterior of the Foyer and entrance to the Queen Elizabeth Executive Offices, and all such signage shall be subject to Board approval. The Tenant shall have exclusive rights to sponsorships and identification signage within the Leased Space provided that no such material shall be visible from outside the Leased Property and that no such rights shall extend beyond the Lease Term.
- (17) Special/Standard Agreement Terms: The Tenant acknowledges and agrees that the Lease shall contain the following terms:
- (a) No assignment of the Lease or the rights thereunder shall be permitted without the prior consent of the Board, and "assignment" shall include an effective change in control of the Tenant;
 - (b) The Tenant shall indemnify the Board, and the City of Toronto, their officers, elected officials, employees and agents against any and all claims, loss, costs and damages arising as a result of the Tenant's operation and/or the operation of any agent, subtenant or concession for the use and occupation of the Leased Property. The Board and the City shall indemnify the CNEA, from and against any and all claims, loss, costs and damages arising as a result of the Board and the City or its agent's access of the Leased Property during the Term of the Lease
 - (c) The Tenant shall provide adequate security and insurance in a form and amount satisfactory to the Board and the City and will further ensure that all agents, operators, sub-tenants and concession operators of the Tenant maintain adequate security and insurance in a form and amount satisfactory to the Board and the City;
 - (d) The Tenant shall be responsible, at its sole expense, for obtaining any and all government approvals required for the operation of the concept, and the construction of any required structures and improvements, including the issuance of any required permits;
 - (e) The Tenant shall provide the Board with a performance bond in a form and amount satisfactory to the Board for the purpose of securing the proper performance of any construction work undertaken by the Tenant or its agents, and the vacating of any valid claims for lien or certificate of action related to the Leased Property or Exhibition Place;
 - (f) All plans for construction shall be subject to the prior approval of the Board;
 - (g) The Board shall be entitled to terminate the Lease upon the failure by the Tenant to remedy any default related to non-payment of rent, safety/personal safety, legislation, permit to operate, or bankruptcy/insolvency issues within ten (10) days of the receipt of notice of default, and that the Board shall be entitled to terminate the Lease upon the failure by the Tenant to remedy any other default not identified in this clause within thirty (30) days of the receipt of notice of default, in addition to its other legal remedies for default by the Tenant, the Board shall have the right to take possession of the Leased Property and distrain the Tenant's goods and property therein;
 - (h) The Board will provide up to a maximum of 5 parking passes at no charge for the Tenant's permanent full-time staff to access designated parking facilities (as

designated from time to time by the Board in its sole discretion) at Exhibition Place which shall be valid throughout the term of the Lease save and except for the period of the annual Honda Indy Toronto and the CNE when parking passes may be restricted and/or a fee may be assessed;

- (i) The Board at its sole expense will maintain the public grounds around the Leased Property including snow removal of the public sidewalk but not the entrance sidewalk to the building all to a service level provided throughout the grounds of Exhibition Place;
 - (j) Such other commercial terms as may be required by the CEO of the Board and the City Solicitor.
- (18) Green Policies: The Tenant acknowledges that the Board is promoting the implementation of “green”, environmentally-sensitive practices and has adopted an environmental policy for Exhibition Place. The Tenant agrees to use reasonable commercial efforts to comply with the Board’s environmental policy as it may be amended from time to time, and to implement environmentally-friendly practices, including adopting procedures and systems in the conduct of its business at the Leased Property which will promote adherence to the Board’s environmental policy.
- (19) No Fettering of City Discretion: Nothing in this Term Letter or the Lease shall derogate from, interfere with, or fetter the exercise by the City, its officers, employees, agents, representatives or elected and appointed officials, of all of its rights and obligations as a municipality (whether discretionary or mandatory), or imposes any obligations on the City in its role as a municipality, and the City shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities, including its planning rights and responsibilities

Schedule "A" to Appendix "A"



Schedule "B" to Appendix "A"

Parking Services Offices
and Common Hallway for Building

