



Exhibition Place

14 (a)

December 16, 2015

To: The Board of Governors of Exhibition Place

FOR INFORMATION

From: Business Development Committee

Subject: **Supplementary Information - Lease for Riding School in Horse Palace**

Summary:

This report provides background information to the Board in relation to the Report No. 13 recommending that the Board enter a four (4) year lease with Sunnybrook Stables Inc. ("Sunnybrook") for the operation of an Equestrian Riding School in a portion of the Horse Palace stables at Exhibition Place commencing January 1, 2016.

Financial Impact:

The value of the proposed four-year lease with Sunnybrook is approximately (\$61,360) over the term of the lease plus property taxes of approximately (\$1,100) annually.

Decision History:

As a part of the 2014 to 2016 Strategic Plan, Exhibition Place had 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 April 11, 2003, the Business Development Committee had before it the results of a RFP process for an equestrian school at the Horse Palace and recommended a lease with Sunnybrook which was approved by the Board at its meeting of April 25, 2003.

At its meeting of November 4, 2011, the Board approved a four (4) year lease with Sunnybrook which term expires on December 31, 2015.

<http://www.explace.on.ca/database/rte/files/Sunnybrook%20Lease.pdf>

At its meeting of December 4, 2015, the Board referred Report No. 13 entitled the "Lease for Riding School in Horse Palace" and dated November 2, 2015, to the Business Development Committee for consideration.

At its meeting held on December 16, 2015, the Business Development Committee adopted a motion referring this supplementary report with respect to a Lease for the Riding School in the Horse Palace for information.

Issue Background:

Sunnybrook has been a long-standing tenant at the Horse Palace since June 1, 2003 and as per the restrictions and requirements of the Lease, must work cooperatively with the three other major tenants / licensees of the Horse Palace, namely the CNEA, the RAWF and the Toronto Mounted Unit. As detailed in Report No. 13, Sunnybrook has managed to adapt its commercial operations to meet the needs of these three major tenants and still maintain a successful and community oriented riding school in this downtown location.

Comments:

Since 1992, there had been a small riding school operating in the Horse Palace. However in 2002, the tenant began to be in breach of its lease obligations failing to pay rent or costs due to difficulties it was having as a small entrepreneur of managing a commercially viable operation and as a result the lease was terminated.

Following the closure of the 1992 operation, Exhibition Place received many calls from riding school students and stable/riding school operators supporting the continuation of an equestrian center at Exhibition Place – the only downtown location for this activity in Toronto. Because of this, a public Request for Proposals was issued in 2003 seeking another operator for an equestrian riding school in the Horse Palace.

The major challenge of a riding school operating at Exhibition Place is the requirement to cease operation and vacate the premises twice a year for the CNE and the RAWF period which results in a closure of approximately two months every year. Also, the timing of these temporary closures are prime operating times for a riding school, for example, when a school would normally have summer camps and in November which is generally a very popular time for lessons. Furthermore, any lessee who operates a riding school in the Horse Palace must also share the exercise ring with the Mounted Police Unit. These site-specific requirements have a bearing on the ability for an operator to conduct a viable business and remit to the Board a reasonable rent for the use of the premises. These operating restrictions were reflected in the 2003 RFP document.

Four proposals were received and following review, the Board approved entering into a lease with Sunnybrook as its proposal offered not only the operation of a riding school but also additional programs and opportunities which would expand the use of the facility and create more of a “destination” riding school as detailed in Report No. 13.

Appendix A sets out all of the substantial terms and conditions of the Lease with Sunnybrook initially approved by the Board in 2003 as amended since 2003 by approval of the Board when the lease was renewed and are being recommended in Report No. 14 to continue for a further 4 year term except again as amended by Report No. 14.

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Business Development Committee

Appendix A

- (a) Leased Area: A minimum of 2,600 square feet
- (b) Permitted Concept/Use: An equestrian riding school, which shall include but not be limited to special riding programs such as: English riding lessons, holiday day camps, "Youth Assisting Youth" community outreach, therapeutic riding lessons for disabled persons, schooling shows, clinics, introductory riding lessons for children and adults, one-day group orientation classes, student co-op programs, Equine Canada Certificate accreditation, and the boarding and leasing of a limited number of horses;
- (c) Rent-free period: During each year of the Term the months of August and November shall be rent-free (during which period the Lessee is required to vacate the premises to accommodate the CNE and RAWF);
- (d) Shared Use of The Facilities: The Lessee will work cooperatively with all other lessees of the Horse Palace with respect to the use of all shared facilities, including but not limited to the exercise ring;
- (e) Audit Rights: The Lessee will keep accurate, complete and up-to-date books and records in accordance with good accounting practices.
- (f) 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;
- (g) Additional Rent: The Lessee acknowledges that this Agreement is fully net to the Board, and that the Lessee shall pay all Taxes, and operating costs associated with and required for its operation, use and occupation of the Leased Area.
- (h) Capital Improvements: The Lessee accepts the Leased Area "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 Area, subject to the prior approval of the Board.
- (i) Closure of Lands: The Lessee 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 Lands. At such times, special provision will be made by the Board to facilitate access to the Horse Palace by the Lessee. If access to the Leased Area is prevented for reasons of "force majeure" or any other reason not within the control of the Board, there shall be no abatement or reduction of Minimum Rent, Additional Rent or Participation Rent, or any compensation for loss of business or claim of any kind.
- (j) Restrictions/Conditions:
 - (i) The Lessee acknowledges and agrees that Exhibition Place, including the Leased Area, may be totally closed to the public on a temporary basis and/or an admission fee may be charged to enter Exhibition Place for certain events, including but not limited to the Honda Indy and the CNE. At such times, special provision will be made by the Board to facilitate access to the Leased Area for essential personnel who are required to attend to the care and feeding of the horses. The Lessee acknowledges that the Board shall have the right during events such as the Honda Indy and the Canadian National Exhibition to close the grounds of Exhibition Place, including the Horse Palace. In such cases, the Board will deliver advance notice in writing to the Lessee no less than six (6) months prior to any such closing. At such times when the grounds are totally closed and/or an admission fee is charged for an event that is in excess of three (3) days (excluding the Honda Indy and the CNE) the Board will work with the event to facilitate access to the Leased Area as noted above. If access to the Leased Area is prevented for 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;
 - (ii) The Lessee acknowledges that the Building has been designated as being of architectural and historic value or interest and shall comply with any and all requirements of applicable legislation with regard to these matters;

- (iii) The Lessee shall familiarize itself with the Central Waterfront Secondary Plan and/or the initiatives of the Toronto Waterfront Revitalization Task Force, and ensure that the use and occupation of the Leased Area conforms with all policies and processes that City Council may adopt as a result of the Waterfront Revitalization;
 - (iv) All collective agreements between the Board and all Labour/Trade Unions having jurisdiction at Exhibition Place must be recognized and complied with for all work at Exhibition Place. The Lessee acknowledges that it shall bear the full responsibility, including payment of any damages that may result from failure to recognize and comply with all collective agreements at Exhibition Place;
 - (v) The Lessee acknowledges and agrees that the Board retains 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. The Lessee shall have rights to install identification (but not commercial or third-party advertising) signage on the exterior of the Leased Property, and within the Leased Property itself, and all such signage shall be subject to the approval of the Board;
 - (vi) The Lessee acknowledges that the Board shall retain all revenues from the operation of all parking facilities (surface and underground) owned and operated by the Board; and,
 - (vii) The Lessee agrees to work with the CNE Association (the "Association") and the RAWF on a cooperative basis to accommodate their requirements to vacate the Leased Area by these events during each year of the Term, (or as may be negotiated by the parties).
- (k) Special/Standard Agreement Terms:
- (i) No assignment of the Agreement 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 Lessee;
 - (ii) The Lessee 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 Lessee's operation and/or the operation of any agent, sub Lessee or concession for the use and occupation of the Leased Area;
 - (iii) The Lessee 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-Lessees and concession operators of the Lessee maintain adequate security and insurance in a form and amount satisfactory to the Board and the City;
 - (iv) The Lessee 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;
 - (v) The Lessee 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 Lessee or its agents, and the vacating of any valid claims for lien or certificate of action related to the Leased Area or Exhibition Place; All plans for construction shall be subject to the prior approval of the Board;
 - (vi) The Board shall be entitled to terminate the Agreement upon the failure by the Lessee to remedy any default related to 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 Agreement upon the failure by the Lessee 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 Lessee, the Board shall have the right to take possession of the Leased Area and distrain the Lessee's goods and property therein;
 - (vii) The Lessee shall not use the Leased Property for any other purpose than that specified in the Lease, nor for the following uses, as determined by the Board in its

- sole discretion: a themed dinner theatre, trade and consumer shows and any activity related to trade and consumer shows, professional sporting events a casino and 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;
- (viii) The Board will provide up to a maximum of 30 parking passes at no charge for the Lessee's permanent full-time staff for students coming for lessons in order to access designated parking facilities at Exhibition Place which shall be valid throughout the term of the Lease save and except for the period of the Honda Indy and the Canadian National Exhibition when parking passes may be restricted and/or a fee may be assessed.