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June 18, 2001

TO: The Board of Governors of Exhibition Place

FROM: Dianne Young  
General Manager & CEO

SUBJECT: Ernie's Arcade, operating as The Bandshell Café

**Recommendations:**

**It is recommended that the lease agreement with Ernie's Arcade for the use of the Bandshell Café be renewed for three years, to expire on December 31, 2004 on the terms and conditions recommended in this report and such other terms as required by the City Solicitor.**

**Background:**

At its meeting of November, 2001, the Board approved entering into a one year lease agreement with Ernie's Arcade for the operation of The Bandshell Café which lease expires December 31, 2001. The Board also requested that staff report back to the Board early in 2001 with respect to any further renewal.

**Discussion:**

For over 50 years, Ernie's Arcade has been operating a food and beverage business in The Bandshell Café and in recognition of their dedicated service to the grounds, the late Mr. John Blair, who was one of the founders of Ernie's Arcade, together with Mr. Dennis Madden, received recognition by the CNEA Board with the presentation of a gold-plated lifetime pass to the CNE. Indeed, Ernie's Arcade is an "institution" on the grounds and carries on several business operations. Through a separate lease with the Board, Ernie's Arcade operates the 7-Up Snack Bar located next to the Food Building throughout the year paying an annual rent of \$12,000 to the Board. This Snack Bar provides an on-site food venue for Board personnel throughout the year. Ernie's Arcade also enters into licence agreements with the Board for the operation of food concessions at other Board events during the year and pays the Board a commission of 21% of gross revenues which in 2000 resulted in 4 licences and commissions to the Board of \$18,000. Finally, during the annual CNE, Ernie's Arcade enters into licence agreements with the CNEA for the operation of several games and food concessions and pays the CNEA between 21 and 45% of gross revenues which in 2000 was equal to approximately \$375,000.

Because of the very long-term relationship that the Board/CNEA has had with Ernie's Arcade, the terms of the agreement for The Bandshell Café are very unusual in that the Landlord contributes substantially to the costs of the operations in the following ways:

- The Board pays for 50% of the realty taxes which in 2001 will be equal to a payment of approximately \$9,000 by the Board for this purpose;
- The Board has supplied various pieces of equipment to the Bandshell Café at no cost including ice maker, hot water heaters, bar fridge, exhaust hood, dish wash station, chemical system, gas oven, washroom exhaust fans, range hood exhaust fans, rooftop heating/cooling unit; HVAC rooftop unit; and the Board is responsible for all costs of repair and maintenance of this equipment and its replacement;
- The Board is responsible for the maintenance and repair of the interior and exterior of The Bandshell Café including the physical structure, roof, air conditioning and heating equipment, sprinklers, fire systems and wooden patio and the painting and repainting of the premises and patio;
- The cost to the Board since 1998 for the maintenance, repair and replacement associated with The Bandshell Café as noted above and the Board equipment is approximately \$68,000 (of which approximately \$28,000 was related to structural repairs/replacement to the heating/air-conditioning unit).

As in previous years, the approach taken by staff in recommending renewal of this lease is that the agreement with Ernie's Arcade for The Bandshell Café should be a "net net" lease position. This is the same position that staff have taken with all other tenants on the site and it is difficult for staff to justify any other direction. However, recognizing that there will be substantial increases in costs to Ernie's Arcade if the agreement moves to a "net net lease", staff are recommending that the term be extended for three years and there be no increases in base rent in the first year of the term.

Accordingly, the substantial terms of the lease agreement being proposed with Ernie's Arcade for The Bandshell Café are as follows:

(a) Term: Three years commencing January 1, 2002;

(b) Minimum Rent:

2002 - \$18,000 per annum (no percentage rent) to be paid in equal monthly installments (\$3.15 per square foot); plus payment of all realty taxes, all utility costs, maintenance costs as set out below and any other associated occupancy costs;

2003 - \$18,000 per annum plus CPI; plus payment of all realty taxes, all utility costs, maintenance costs as set out below and any other associated occupancy costs;

2004 - \$18,000 per annum plus CPI; plus payment of all realty taxes, all utility costs, maintenance costs as set out below and any other associated occupancy costs;

(c) Realty Taxes: Tenant is responsible for the payment of all realty taxes;

(d) Equipment: The Board will provide to Ernie's Arcade for the duration of the Term certain pieces of equipment as are installed in The Bandshell Café at the commencement of the Term provided that Ernie's Arcade is fully responsible for all costs of maintenance and repairs of such equipment (save and except the exterior heating, air-conditioning and washroom

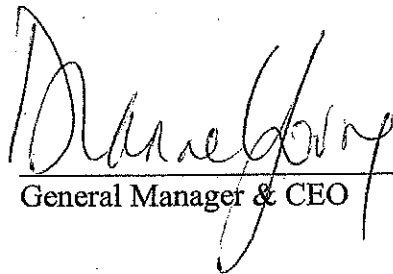
exhaust equipment). The Board will not be required to replace any of the Board's Equipment for any reason save and except the exterior heating and air-conditioning systems and washroom exhaust;

- (e) Tenant's Responsibilities: Ernie's Arcade is fully responsible for all maintenance and repair of the interior of The Bandshell Café and non-structural maintenance on the exterior including but not limited to maintenance and repair of the sprinklers, fire systems, wooden patio and the painting and repainting of the interior, exterior (if any) and patio;
- (f) Landlord's Responsibilities: The Board is responsible only for the cost of repairs to and maintenance of the foundations, structure, roof, heating and air-conditioning systems and washroom exhaust of The Bandshell Café;
- (g) Permitted Uses: the operation of a licensed food and beverage business and for product launches or vendor shows that do not exceed 2500 square feet in display space; but not for any themed dinner theatre, trade and consumer show, product launches or vendor shows that exceed 2500 square feet in display space, or any vendor shows or meetings that are related to any trade and consumer show, or any casino use;
- (h) Insurance: Property and liability insurance with limits of \$5 million in form satisfactory to City; Operation during the Canadian National Exhibition: Ernie's Arcade agrees to operate The Bandshell Café during the hours of operation as prescribed by the CNEA and the Board; and will observe hours of operation during the balance of the operating year as prescribed by the General Manager & CEO; and,
- (i) Special Conditions: the Board agrees to waive Minimum Rent during the period of the annual Canadian National Exhibition ("CNE") if Ernie's Arcade enters an agreement with the CNEA and is required to remit commissions on sales from this location to the CNEA for that period.

Conclusion:

This report recommends extending the current agreement with Ernie's Arcade for the operation of The Bandshell Café for a period of three years, to expire on December 31, 2004, on the terms and conditions set out and such other terms required by the City Solicitor.

Submitted by:

  
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General Manager & CEO



June 28, 2001

Ms. Dianne Young  
General Manager & CEO  
Exhibition Place  
Toronto, Ontario  
M6K 3C3

Dear: Dianne

**Re: Lease Proposal Bandshell Café**

Further to our meeting of June 12, 2001 and your correspondence of June 13 and June 25, 2001 in regard to the renewal of the Bandshell Cafe Café lease.

Ernie's has operated the Bandshell Cafe for fourteen (14) years, during which time the Bandshell Cafe Café's best operating statements have been a break even or minimal profit.

As discussed Ernie's has reviewed the proposed Bandshell Cafe lease, your recent correspondence, the Bandshell Cafe historical operating statements and projected budgets for the proposed three (3) year term.

The proposed lease, which would require Ernie's to pay all realty taxes and maintenance would have a substantial impact on the viability of this business, considering that rent and realty taxes are based on a 365 day year, Ernie's does not have use of the facility for the full year, there are a number of events which ever closes the grounds (most of which are in the prime summer months) or the use of the Bandshell Cafe parking lot is restricted throughout the year. In addition it is very difficult to book any functions during the winter months.

Ernie's has looked at it operation of the Bandshell Cafe as having some benefits to its other businesses, most of which operate within the Exhibition Place grounds, and therefore is prepared to continue to operate the Bandshell Cafe Café under the terms of the existing lease agreement.

The Bandshell  
Exhibition Place  
Toronto, Ontario  
M6K 3C3  
977-2815

When Ernie's was approached by Exhibition Place fourteen years ago to operate the Bandshell Cafe, we were asked to purchase the existing equipment from the incumbent operator for Sixty Thousand Dollars (\$60,000.00). Over the years Ernie's has invested substantial capital in the Bandshell Cafe, including additional and replacements of the necessary kitchen equipment and accessories. We request that Exhibition Place would extend the same courtesy to Ernie's and include our existing equipment and accessories at market value, in any request for proposals or tender of the premises. Attached is a complete inventory of Ernie's Bandshell Cafe equipment and accessories.

We have enjoyed our relationship with the Bandshell Cafe, Exhibition Place and CNE, so it is with much regret that we must inform you that we are not prepared to accept the proposed lease.

We appreciate your position, thank you for your assistance and professionalism in dealing with matter and trust that you appreciate our position as well, as we would not want this matter to jeopardize our long standing excellent working relationship with Exhibition Place, therefore should you wish to discuss this matter further do not hesitate to contact me.

Your Truly

  
Dennis Madden