



IN CAMERA

ADMINISTRATIVE REPORT

Report Date: June 23, 2016
Contact: Patrick Murphy
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RTS No.: 11550
VanRIMS No.: 08-2000-21
Meeting Date: July 26, 2016

TO: Vancouver City Council
FROM: General Manager of Real Estate and Facilities Management
SUBJECT: Proposal to Lease Queen Elizabeth Theatre Restaurant Space

IN CAMERA RATIONALE

This report is recommended for consideration by Council on the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter*: (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the city.

RECOMMENDATION

- A. THAT Council approve the Term Sheet (see Appendix C) outlining the salient terms of a proposed lease with Kered Hospitality Ltd. for both the plaza level restaurant space (addressed at 649 Cambie Street) and the lower level Media Club space (addressed at 695 Cambie Street), both located at Queen Elizabeth Theatre, as shown on Appendix B (attached).
- B. THAT Council authorize staff to proceed with further lease negotiations with Kered Hospitality Ltd. based on the Term Sheet.
- C. THAT the Media Club operator and owner be advised forthwith of Council's concurrence to proceed with further negotiations for a lease with Kered Hospitality Ltd. for both the restaurant and Media Club spaces at the Queen Elizabeth Theatre.

REPORT SUMMARY

Staff completed a Request for Proposals for "Operator for the Queen Elizabeth Theatre Restaurant" that closed on October 19, 2015 (the "RFP") as part of efforts to revitalize the Queen Elizabeth Theatre complex and plaza. The RFP was for the theatre restaurant space addressed at 649 Cambie Street only. Discussions proceeded with the only respondent to the RFP, Browns Restaurant Group ("Browns"), which culminated in Browns amending its original submission to request that the City lease both the restaurant and basement Media Club spaces (649 and 695 Cambie Street) to Kered Hospitality Ltd., its Franchisee (the "Franchisee" and the "Tenant") for a consolidated restaurant / live music venue operation.

The proposed rental terms are satisfactory and include the opportunity to profit share if ^{s.17(1)} Gross Revenues (the "Sales Rent") exceed the minimum rent of ^{s.17(1)} per annum. Kered Hospitality Ltd. also intends to continue to operate a live music venue in the premises integrated with the restaurant.

The Media Club lease expires at the end of July 2017, and its operator is pursuing other venues in case the City, as Landlord (the "Landlord"), does not agree to grant a new lease. Despite offers from staff, Browns and the Franchisee to discuss the potential for a continued role for the current Media Club operator within the new restaurant, the Media Club operator is not willing to discuss options until he has certainty that a new lease will not be provided to him. Accordingly, staff is seeking Council approval to move forward with the Franchisee's proposal, knowing that such approval will end the tenure of the current operator of the Media Club in its present form.

The salient terms of the agreement, subject to further clarification on costs and Council approval, are provided in the Term Sheet attached as Appendix C, and are summarized below:

Proposed Lease Terms

Premises: 649 and 695 Cambie Street;

Total Leasable Area: Approx. 5,918 square feet;

Use: Restaurant / Live music venue;

Lease Term: Seven (7) years;

Option to Renew: Three (3) terms of five (5) years each;

Rent: Rent is the greater of the Minimum Total Rent of ^{s.17(1)} per annum (which ^{s.17(1)} includes an amount in lieu of taxes currently set at ^{s.17(1)} per annum) OR ^{s.17(1)} of gross sales plus an amount in lieu of taxes currently set at ^{s.17(1)} per annum;

Landlord Right to Terminate: The Landlord may terminate the Lease at any time in any of the renewal terms after providing two (2) years notice. The termination cannot take effect until after the 10th year;

Landlord Investment: Base building improvements not to exceed s.17(1) ;

Tenant Investment: Restaurant tenant improvements estimated at s.17(1) ;

Reimbursement Provision: Should the Landlord terminate the Lease, the Tenant shall receive reimbursement based on the current value of its initial investment fully depreciated over twenty-two (22) years. For the purposes of calculating the Tenant's investment, actual proven costs will be utilized, not to exceed an initial investment amount of s.17(1)

COUNCIL AUTHORITY/PREVIOUS DECISIONS

The Vancouver Civic Theatre ("VCT") has formulated a revitalization strategy that endeavours to increase utilization, community engagement and animation of public VCT spaces. While the revitalization project is focused on facilitating non-profit activity with a focus on arts, culture, local food and wellness, the restaurant opportunity is consistent with the objectives of the revitalization project and presents an opportunity to generate revenue as well.

The General Manager of Real Estate and Facilities Management can approve leases and lease renewals if:

1. The total value does not exceed the sum of \$750,000; and
2. The term is no longer than ten (10) years (including renewal options).

Larger lease values or longer lease terms require Council approval.

The proposed lease term exceeds ten (10) years and exceeds \$750,000 in total value over the term, and cannot be approved by the General Manager of Real Estate and Facilities. Accordingly, the proposed Lease is submitted to Council for approval.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The General Manager of Real Estate and Facilities Managements recommends APPROVAL of the foregoing.

REPORT

Background/Context

The restaurant space at the Queen Elizabeth Theatre (the "QET") has not operated as a restaurant for almost 25 years and has been vacant for thirteen years, with only limited use in conjunction with plaza events. In the last 25 years, considerable residential density has been constructed in close proximity to the complex, significantly increasing prospects for a restaurant.

Staff issued Request for Proposal PS20151005 to seek an operator for the restaurant premises at QET on August 20, 2015 and closed the RFP on October 19, 2015. Civic Theatres reported that there was significant interest from the restaurant industry and tours of the facility attracted a broad group. Although numerous restaurateurs toured the premises as part of the RFP process, only one proposal was ultimately received.

The proposal received from Browns sought several variations on the terms stated in the RFP requiring further negotiations. The most significant variation was to propose a total lease term of twenty-two (22) years. The RFP offered seven (7) years with an additional five (5) years if agreed to by both parties.

Given that Civic Theatres was pleased with Browns' restaurant operations and its overall proposal, staff has spent several months working through the terms proposed by Browns and its selected Franchisee. s.17(1)

s.17(1)

s.17(1) the Landlord's and Tenant's respective investment, a provision for investment recovery in the event of "early" termination, overall rental terms and the inclusion of the Media Club space in the lease proposal.

While a mutual understanding of the overall terms has been reached pending further clarification on costs, the critical unresolved issue relates to the current Media Club operation. While the RFP was issued for the upper level restaurant space only, the Franchisee has submitted its proposal based on the Landlord's agreement to provide them with the entire building, including the Media Club premises. The Media Club lease expires on July 31, 2017.

s.21(1)

Strategic Analysis

The initial proposal from Browns addressed all the requested financial terms from the RFP but requested a term, with renewal options, totalling twenty-two (22) years. A seven (7) year initial term with three (3) options to renew of five (5) years each was proposed. The rental objective of s.17(1) per year minimum rent was included or s.17(1) of gross sales, whichever is greater, plus cash in lieu of taxes of s.17(1) per annum.

With the final proposal to include the Media Club space, proposed minimum rent increased from s.17(1) to s.17(1) and the amount in lieu of taxes increased from s.17(1) to s.17(1) for a total rent of s.17(1) per annum. The Sales Rent of s.17(1) applies to all areas of the restaurant, including the patios.

Because Browns estimates an investment by its Franchisee of s.17(1) in tenant improvements, the proposed tenure of twenty-two (22) years is an important factor in its proposal. This request for a lengthy tenure is consistent with the Landlord’s other restaurant leases (see Figure 1 below) but is potentially problematic at QET because of the stated City desire to facilitate a common plaza with the new VAG which would likely result in the demolition of the restaurant building.

Figure 1 - Sample of Other City Restaurant Transactions

Restaurant Name	Initial Term	Renewal Option(s)	Total with Renewals	Base Rent	Sales Rent	Size (sq ft)	Base Rent PSF
Cactus Club	s.17(1)					5,467	s.17(1)
Tap & Barrel (Village)						6,065	
Craft Beer Market (Salt Building)						13,097	
QET						5,918 effective	

Accordingly, it is proposed that the Franchisee be provided its requested seven (7) year term with three (3) options to renew of five (5) years each, but the Landlord be provided the option to terminate the lease to take effect at any time after the tenth year upon two (2) years notice and reimbursing the Tenant for the undepreciated value of the actual tenant improvements, to be based on a maximum investment amount of s.17(1) (undepreciated). The Landlord has also agreed to invest up to s.17(1) in base building items that would need to be addressed in order to lease the space to a modern restaurant operation.

Implications/Related Issues/Risk (if applicable)

Financial

The table below presents the impact of the City’s termination of the proposed lease at years 10, 12 and 22 where only minimum revenue is achieved. It is assumed in this review that no Sales Rent is achieved. The Landlord initial s.17(1) investment is not included in the summary below.

The proposed lease could achieve a minimum accumulated rent of s.17(1) over the total twenty-two (22) year term of the lease including renewals.

Year of Lease Term	Final Proposal Kered (Franchisee) Cumulative Rent Collected	Landlord's Reimbursement Cost if Landlord Terminates the Lease	Final Proposal Kered (Franchisee) Net Proceeds (Losses) if Landlord Terminates
10 th Year	s.17(1)		
12 th Year			
22 nd Year			

Because of the anticipated efficiencies in planning for both spaces concurrently and operating a larger facility, Kered is proposing to cap the Landlord investment at s.17(1) and the actual tenant investment at s.17(1) as was proposed in the initial Browns' proposal. Accordingly, not only does the Kered proposal enhance revenues, it also accelerates the Landlord's capital recovery and reduces the Landlord's exposure should it be necessary to terminate the lease after Year 10.

The Landlord's investment of up to s.17(1) in base building improvements will be funded from the Capital Fund for Cultural Facilities.

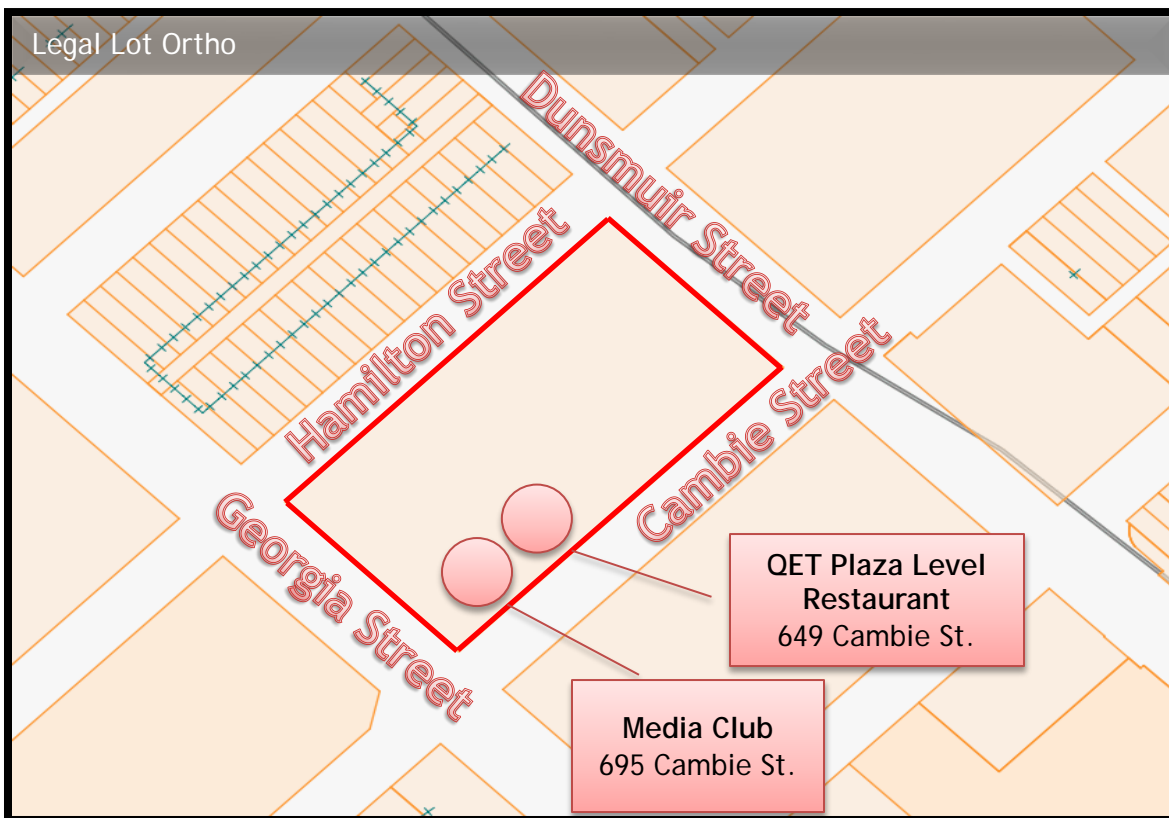
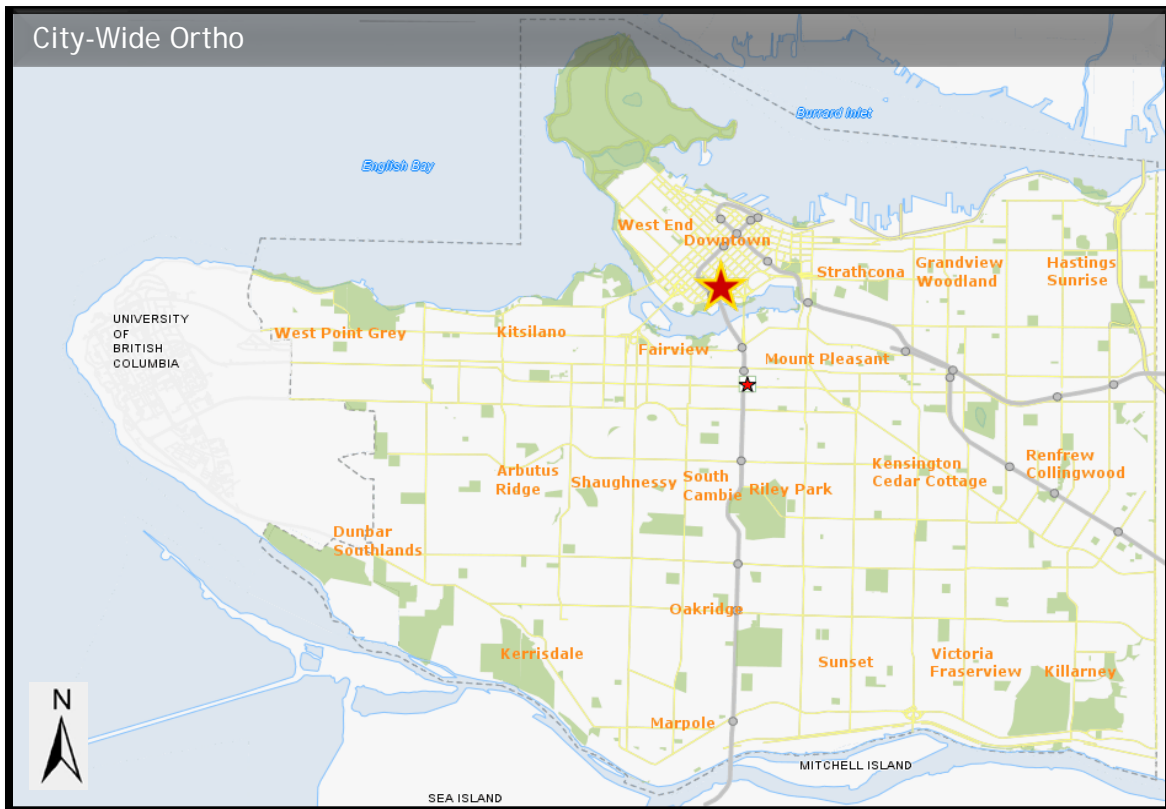
Environmental

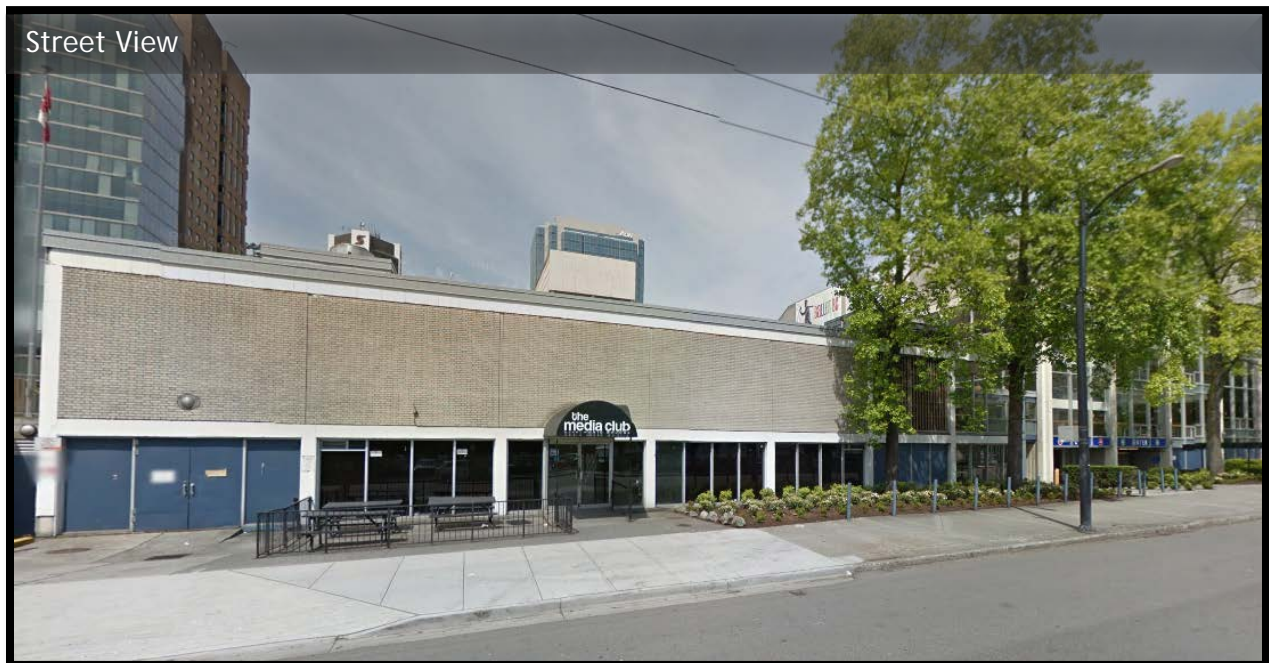
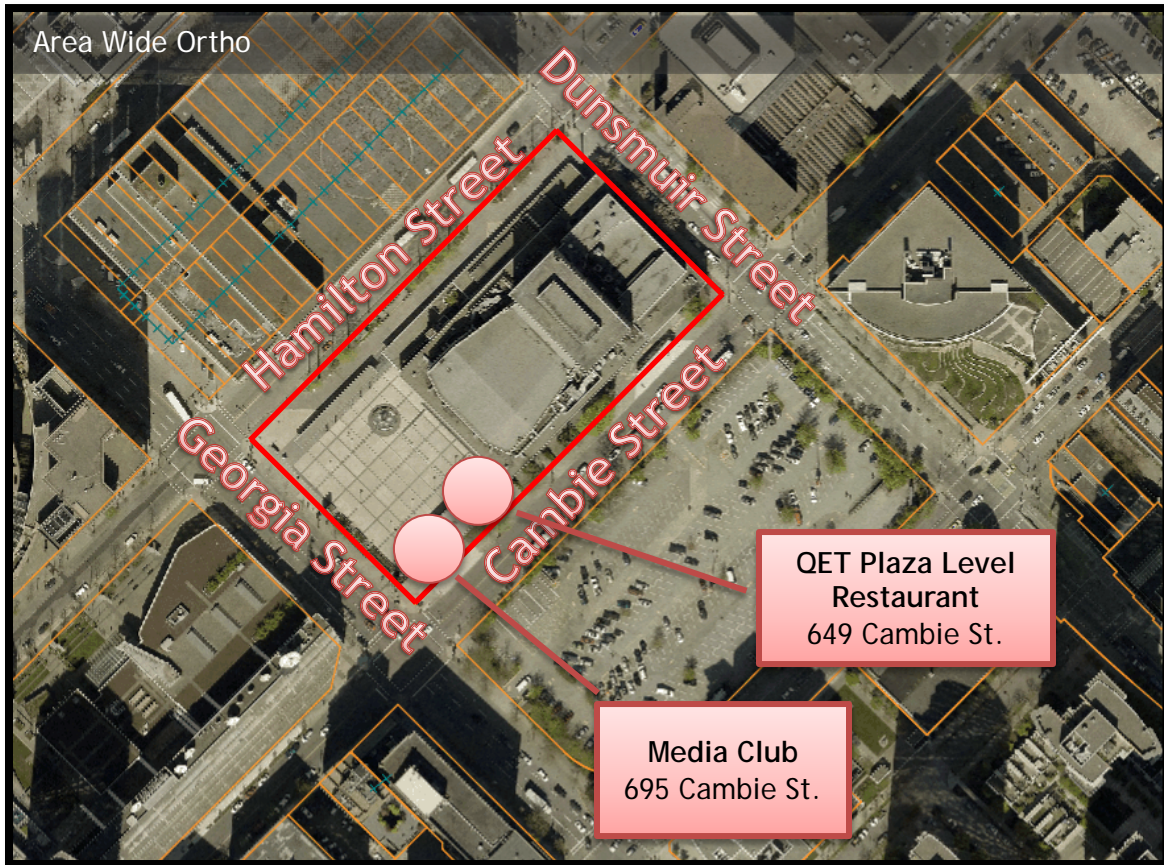
Hazardous building materials are present in the Subject Property. The City will work with Kered to ensure that hazardous building materials are assessed prior to, and managed during, any building improvements.

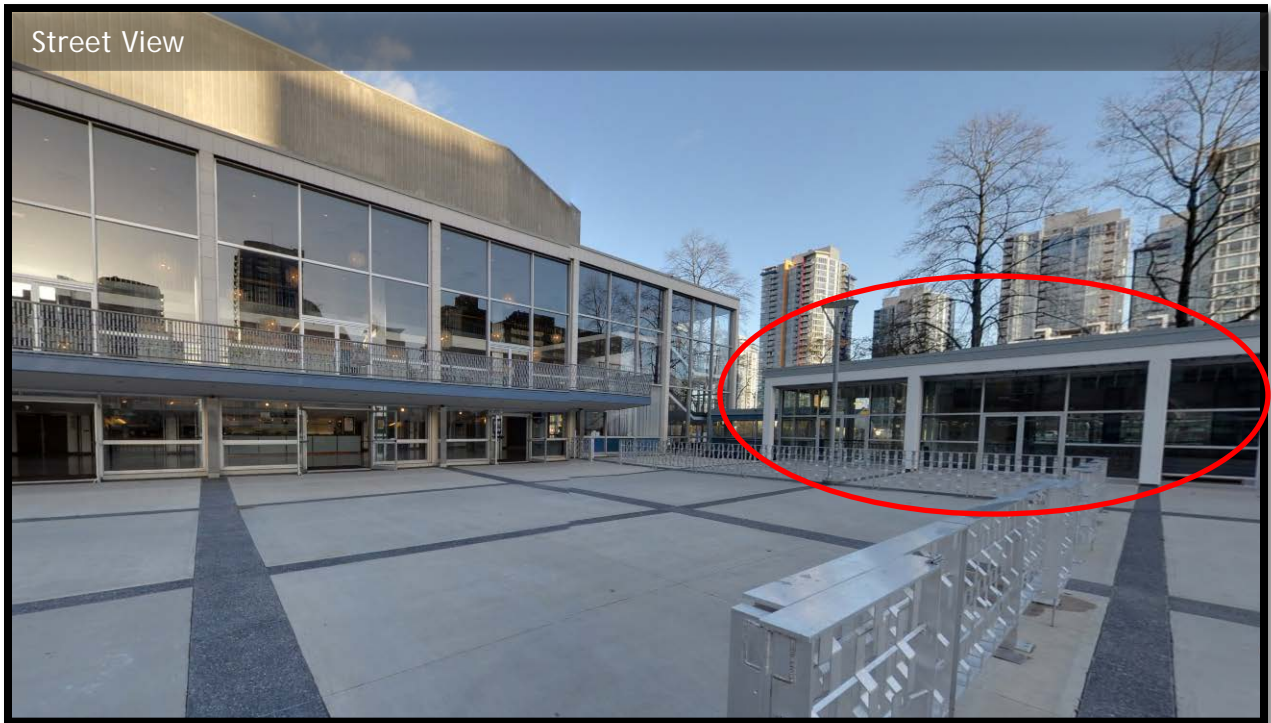
CONCLUSION

While the circumstance of the adjoining VAG development creates some challenges to the securing of a quality restaurant operator at QET, the Director of VCT is very satisfied with the Kered Proposal as it promises to provide animation of the plaza, increase public dwell time and exposure of the QET complex and provide an opportunity for additional revenue. Therefore, the proposed Lease terms as noted herein are recommended for approval by Council.

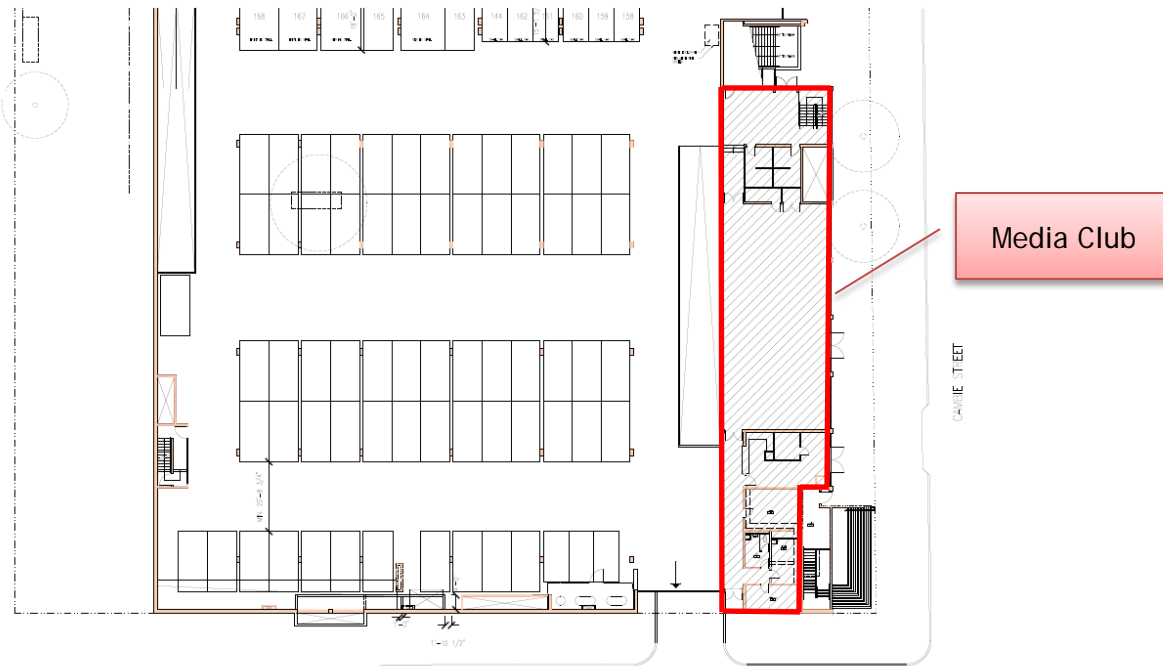
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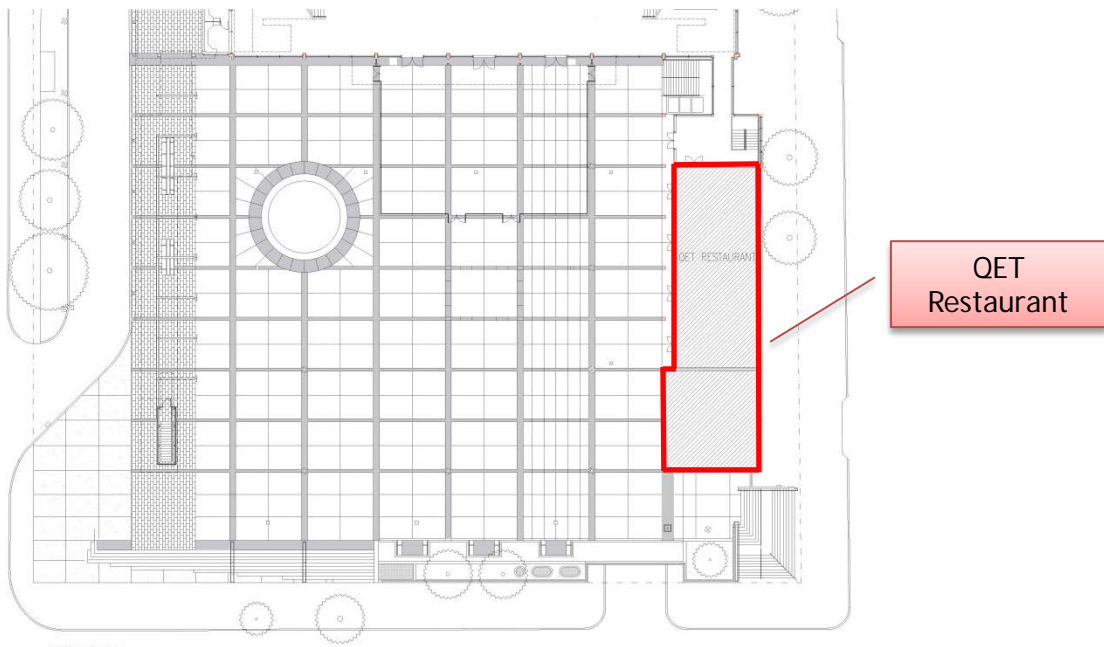




Floor Plans



1 UPPER PARKADE LEVEL P1
1/8" = 1'-0"



1 QET PLAZA PLAN
1/8" = 1'-0"

Term Sheet

TERM SHEET

Topic : Browns Socialhouse at Queen Elizabeth Theatre

Purpose	<ul style="list-style-type: none"> To facilitate renewed vitality at Queen Elizabeth Theatre Plaza, conclude Request for Proposal PS20151004 and secure a lease with a restaurant operation that meets the objectives of Civic Theatre group.
Parties:	<ul style="list-style-type: none"> City of Vancouver (the "Landlord") Kered Hospitality Ltd. (the "Tenant") Browns Restaurant Group ("Browns") will have the right, as Franchisor, to take back the Lease in the event the Tenant is in breach, upon rectifying the breach.
Subject Premises:	<ul style="list-style-type: none"> Approximately 2,918 square feet of restaurant space and approximately 4,161 square feet of lower level pub/restaurant space. See Schedule A.
Patio and Foyer	<ul style="list-style-type: none"> The Tenant shall have the right to utilize an agreed portion of the QET plaza for its exclusive use as a restaurant patio (minimum patio area of 1563 sq ft at the plaza level). Additionally, should the Media Club space be secured for use by the Tenant, the Tenant shall have the right to utilize an agreed to portion of the lower area at street level on Cambie Street for its exclusive use as a restaurant/bar patio. Browns shall have the right to access the washrooms in the foyer for its patrons.
Lease Term:	<ul style="list-style-type: none"> Seven (7) years with three (3) options to renew of five (5) years each for a total of 22 years. The Landlord will have the right to terminate the lease during any renewal term for any reason upon 2 years notice so that actual lease termination can occur in any year after the 10th year of the lease.

June 14, 2016

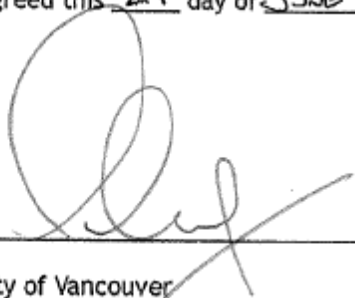
<p>Rental Rate.</p>	<ul style="list-style-type: none"> • The Tenant shall pay as annual rent the greater of: <ul style="list-style-type: none"> ○ 1. s.17(1) per annum to be total rent inclusive of a payment in lieu of property taxes, as if levied; and ○ 2. Sales Rent calculated as 6% of Gross Revenues, plus a payment in lieu of property taxes, as if levied with the current rate set at s.17(1) per annum. • In the event that Browns is successful in securing the Media Club premises, the Tenant shall pay as annual rent the greater of: <ul style="list-style-type: none"> ○ 1. s.17(1) per annum to be total rent inclusive of a payment in lieu of property taxes, as if levied; and ○ 2. Sales rent calculated as 6% of Gross Revenues, plus a payment in lieu of property taxes, as if levied with the current rate set at s.17(1) per annum.
<p>Investment by the Landlord</p>	<ul style="list-style-type: none"> • The Landlord will be responsible to provide: <ul style="list-style-type: none"> ○ electrical service to permit at least 400 amp service (600 amps if The Media Club space is secured) 120/208 volt, 3 phase, 4 wire service ○ Adequate HVAC for the premises ○ Adequate water service for restaurant use (minimum 2" diameter with min 60 psig static pressure) ○ Sprinkler system water supply and standpipe ○ Fire alarm and annunciator panel if required by code ○ Create basic shell premises ie removal of existing improvements from space ○ Existing connected 4" sanitary service ○ Garbage and recycling area and empty bottle / keg storage area to be determined <p>at its cost, to a maximum of s.17(1) (although it is Landlord's expectation that actual costs will be far less).</p>

<p>Investment by Tenant:</p>	<ul style="list-style-type: none"> • The Tenant will be responsible for <ul style="list-style-type: none"> ○ the build out of the space including distribution of electrical, ducting and sprinkling to suit layout of premises, and any fixturing and furnishings. ○ constructing the patio area ○ any alteration of the storefront ○ remove existing finishes ○ install conduits for telephone and cable tv ○ natural gas upgrades if required ○ new accessible washroom on upper level ○ alterations to sprinkler system beyond open plan ○ all venting / exhausting requirements including Make Up Air Unit ○ ecologizer if required ○ floor coring penetrations ○ all under-slab requirements including grease trap ○ all work needed to connect upper level and lower level ○ any roof alterations or repairs ○ all permits at its cost.
<p>Seismic Upgrades</p>	<ul style="list-style-type: none"> • Neither party has agreed to undertake any seismic upgrading to the Building
<p>"As Is Where Is"</p>	<ul style="list-style-type: none"> • Except for the agreed investment by the Landlord, the Tenant accepts the premises 'as is'
<p>Responsibility for Construction:</p>	<ul style="list-style-type: none"> • The parties agree that in order to expedite the construction process, the Tenant will be responsible for all construction works including those Landlord works noted in the section Investment by Landlord above. The Tenant will be responsible for obtaining all necessary permits and authorizations and the preparation of any relating drawings / plans. The Tenant agrees to keep accurate records of Landlord Works for review and approval by the Landlord. The Landlord will review records of Landlord Works within 15 days of receipt and provide reimbursement within 30 days of Landlord approval. The Tenant also agrees to keep accurate records of its investment so that the Initial Actual Investment can be set in the event that the Tenant's investment is reimbursed due to Landlord exercising its right to terminate the Lease.

Termination After 10 th Year:	<ul style="list-style-type: none"> It is agreed that should the Landlord wish to terminate the Lease Agreement with the Tenant, it can do so in any renewal term to be effective after the 10th year of the lease, and agrees to reimburse the Initial Actual Investment made by the Tenant based on its depreciated value at the time of termination, utilizing straight line depreciation over the full 22 year term.
Maximum Initial Actual Investment:	<ul style="list-style-type: none"> It is agreed that the Initial Actual Investment will not exceed s.17(1)
Lease Agreement:	<ul style="list-style-type: none"> This Term Sheet is subject to Council Approval. Within 30 days of Council approving the terms of this term sheet, and the Prior Conditions satisfied below, the parties will enter into a Lease Agreement and/or Construction Agreement. Rent will commence upon completion of construction and the premises being ready to open for business or 16 months after Council approval, whichever is sooner provided that building permits are processed within 3 months of a complete permit application being submitted. The form of lease will be the form that was provided in the Request for Proposals.
Parking	<p>Monthly parking for Tenant's staff is available on site through the City contracted parking service at prevailing rental rates</p>
Prior Conditions	<p>The Tenant is verifying its construction costs and the Landlord is examining its ability to deliver the Media Club space. These issues must be resolved to the satisfaction of both the Landlord and the Tenant prior to proceeding to execution of a Lease Agreement.</p>

No legal rights or obligations will arise or be created by the tabling and discussion of these terms or any amendments to them until City Council have approved same and the City and the Tenant have executed the formal agreement arising from these terms and otherwise on terms and conditions satisfactory to the General Manager of Real Estate and Facilities Management

Agreed this 21st day of JUNE, 2016.



City of Vancouver



Kered Hospitality Ltd.



Browns Restaurant Group

June 14, 2016