

CITY OF HAMILTON

NOTICE OF MOTION

Council Date: May 20, 2020

MOVED BY COUNCILLOR J. FARR.....

Utilizing the Rooftop of York Boulevard Parkade as Temporary Open-Air Performance Space

WHEREAS in January 2014, Hamilton Council approved the Music Strategy which included four goals, to strengthen the local music industry, grow audiences and appreciation of music, increase access to music experiences; and cultivate music creation and talent;

WHEREAS in March 2019 Council approved the Creative Industries Sector Profile Report and Implementation Recommendations (PED19056) in which music was identified as one of the City's top growth areas;

WHEREAS Hamilton's music industry employs an estimated 7,725 workers and has a total of 541 businesses;

WHEREAS the Live Music Venues Research Report has identified that Hamilton's direct GDP from music venues is \$32.6M with \$2.6M from property taxes and total revenues generated by venues was \$62.7M;

WHEREAS the City, with the support and advice of the Hamilton Music Advisory Team (HMAT), has completed a number of actions, including: Musician Loading Zones; Annual Musician Conferences; social media and marketing efforts (@HamOntMusic); Music Mondays outdoor concert series at City Hall; one-to-one mentoring for musicians; support for Hamilton Public Library's Music Archive; Hamilton showcases at local venues; and completion of a draft live music venue report that measures the economic and social impacts of the City's live music sector;

WHEREAS the Provincial Orders resulting from the COVID-19 pandemic have had a significant impact on the music and performing arts sector;

WHEREAS the required closure of a number of venues that normally host such performances has negatively impacted artists as well as host organizations and venue operators;

WHEREAS the City's Economic Development Division's Business Impact Survey found that 71% of creative businesses reported that COVID had impacted their revenues by more than 50% and 36% of businesses in this sector have decreased employment by 100%;

WHEREAS temporarily repurposing a City-owned space to be used by the local performing arts industry provides an opportunity to support the performing arts sector during the COVID-19 recovery phase; and

WHEREAS in considering potential locations for such a use, the top level of the York Boulevard Parkade presents a number of benefits, including that it is currently under-utilized, it would not displace other users which may be the case for other public spaces such as parks, it is fully accessible, it allows for audience sizes to be controlled, and it does not have immediate surrounding sensitive land uses such as residential uses

THEREFORE BE IT RESOLVED:

- (a) That staff from the Corporate Real Estate Office and Tourism and Culture Division, in consultation with Transportation Planning and Parking Division, be authorized and directed to initiate an open call to seek interest from potential Licensees to operate a small, temporary open-air performance space venue to be located on the underutilized top level of the York Boulevard Parkade located at 28 York Boulevard for the 2020 season, which would include organizing, scheduling and managing a small performance series program;
- (b) That the General Manager, Planning and Economic Development, or their designate, be authorized and directed to negotiate and execute a Licence Agreement, and any other necessary documents, on behalf of the City with the successful proponent (the "Licensee") for the use of the top level of the York Boulevard Parkade as a temporary open air performance space venue based substantially on the terms and conditions attached, with such other content satisfactory to the General Manager, Planning and Economic Development and in a form satisfactory to the City Solicitor
- (c) That the Tourism and Culture Division be authorized and directed to contribute to the initial start-up costs related to the creation of a temporary open-air performance space venue at the York Boulevard Parkade to an upset limit of \$7,500, to be funded from the City's Economic Development Reserve; and
- (d) That Real Estate and Legal fees of \$1,500, associated with a Licence Agreement for the use of the York Boulevard Parkade as a temporary open-air performance space venue, be funded from the City's Economic Development Reserve and credited to Account No. 45408-812036 (Real Estate – Admin Recovery).

Major Terms and Conditions

Location:	Top level, York Boulevard Parkade, 28 York Boulevard, Hamilton, ON.
Term:	A season running from approximately late June to approximately late October.
Objective:	Creation of a small, temporary outdoor performance space, and hosting a performance series including live music and the performing arts, in a manner that benefits artists as well as community partners who normally host performance art events.
Value Consideration:	Licence Fee to be at nominal value, fully net and carefree to the Licensor. Licensee to assume all costs, expenses, fees and losses (if any) associated with the scheduling, operation and management of the small concert series to be further detailed in the Licence Agreement.
Licensor Financial:	<p>To provide a maximum of \$7,500 one-time contribution at the execution of the Lease to the operator for reimbursement of expenses associated with the following:</p> <ul style="list-style-type: none">• staging• security fencing• seating• hygiene stations• other costs associated with setting up the venue, where agreed to in writing, by the Director of Tourism and Culture, but shall not include any operating expenses.
Operational Days & Times:	<ul style="list-style-type: none">• Generally, not operating later than 10 pm on any day, or earlier than 5 pm on weekdays.• Changes to allowable dates and/or hours may be permitted at the sole discretion of the City and where agreed to in writing by the Director of Tourism and Culture.
Sponsorships:	<ul style="list-style-type: none">• The Licensee may secure presenting sponsors for one or more individual events but is not permitted to secure any sponsorships that imply sponsorship of the venue.• Any sponsors must be agreed to in writing by the Director of Tourism and Culture.

	<ul style="list-style-type: none"> The Licensee shall provide appropriate recognition of the City of Hamilton's support for the venue and program, and the City of Hamilton's Music City brand, as directed by the Director of Tourism and Culture.
Community Partnership:	<ul style="list-style-type: none"> The Licensee will ensure the involvement of community partners as event hosts or presenting partners. Community partners should be Hamilton-based businesses or groups that have, in the previous calendar year, hosted or managed ticketed performances or events.
Performances:	<ul style="list-style-type: none"> All performing artists must be compensated in accordance with established industry standards and recommended practices. The operator will provide for diverse performance opportunities, including diversity of art forms, diversity of performers, and performances that appeal to a diversity of audiences.
Operational Conditions:	<ul style="list-style-type: none"> The Licensee will be required to submit a venue layout plan, as well as any modification to the layout plan, to be approved by the Director of Tourism and Culture. It is expected that the venue layout plan will need to ensure physical distancing of at least 2 metres between audience members. Noise levels shall be controlled and kept to community acceptable levels and pursuant to consolidated Noise By-law 11-285 (i.e. maximum of 60 dba at point of reception, 90 dba within 10m) and with all applicable municipal by-laws governing such noise and events as may be in force from time to time. Security fencing must ensure that patrons do not have access to the top parking level roof edge. Must provide portable hygiene stations and regular cleaning in accordance with any requirements to be established by the City and Public Health. Must meet any attendance maximums established by the City, at the City's sole discretion. It is expected that this maximum will be approximately 50 individuals at any one time, inclusive of audience members, performers, staff and anyone else.

	<ul style="list-style-type: none"> • Licensee must provide a security plan for prior approval by the Director of Tourism and Culture, which will generally include security on the top level of the parkade, as well as accesses, patrol and monitoring of the rest of the parkade. • Licensee must provide for cleaning and garbage removal, including cleaning of stairwells on event days. • Licensee may not block or interfere with normal parking operations and patrons accessing or leaving the parkade. • Licensee will agree to abide by the City's Operating Rules & Regulations, as provided by the General Manager or designate, acting reasonably, which may change from time to time and will be updated by the General Manager or designate and provided to the Licensee as required. • Licensee will agree to abide by the City's Municipal Alcohol Policy as provided by the General Manager or designate, acting reasonably, which may change from time-to-time and will be updated by the General Manager or designate and provided to the Licensee as required • Licensee's personnel must have valid Smart Serve certification • Licensee shall at its sole cost and expense at all times comply with all provisions of any present or future law, by-law, rule, regulation, or order enacted or made by any Federal, Provincial, City, Regional or Municipal authority having jurisdiction including all of the City's policies as may be adopted by City Council from time to time • Licensee will agree to provide an indemnification to the City in accordance with the requirements of the City's Risk Management department. • Any other terms and conditions deemed necessary by the City Solicitor, from time to time.
Insurance Requirements	<p>Licensee shall obtain and maintain for the duration of the term:</p> <ul style="list-style-type: none"> • Commercial General Liability insurance with a minimum limit of \$5MM per occurrence and

	\$5MM in the aggregate endorsed to include the City of Hamilton as additional insured and Host Liability Insurance.
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