



MABELLEarts - Long Term Lease and Operating Agreement for parts of Mabelle Park

Item 6C

April 27, 2021

Board of Directors

Report: TCHC:2021-27

To: Board of Directors (the “Board”)

From: Building Investment, Finance and Audit Committee (“BIFAC”)

Date: April 2, 2021

PURPOSE:

The purpose of this report is to seek the Board’s approval to execute a binding Memorandum of Understanding (“MOU”) with MABELLEarts for a long term lease and operating agreement for parts of Mabelle Park, which is owned by Toronto Community Housing (“TCHC”).

MABELLEarts plans to build a clubhouse in Mabelle Park to offer year-round programming to TCHC tenants. Board approval is required for execution of the binding MOU, lease and operating agreement as the MOU will enable MABELLEarts to obtain funding for the proposed clubhouse. MABELLEarts’ investment will include a \$1.6 million capital investment with a minimum of 50 hours of programming per month provided to TCHC tenants.

RECOMMENDATIONS:

It is recommended that the Board approve the following:

1. Approve the execution of the attached binding MOU between Toronto Community Housing Corporation and MABELLEarts;

2. Approve the execution of a lease of part of Mabelle Park for the clubhouse and an operating agreement for the balance of the park to MABELLEarts, each with a term of twenty years and otherwise substantially on the terms set out in the MOU or as agreed to by Toronto Community Housing Corporation; and
3. Authorize the Vice President of Facilities Management, or his designate, to take all actions and execute all necessary documents or agreements, on behalf of Toronto Community Housing Corporation, to implement the above recommendations.

BIFAC:

This report was approved by the BIFAC on April 15, 2021.

REASONS FOR RECOMMENDATIONS:

MABELLEarts is an award winning community arts organization in Central Etobicoke. Since 2007, MABELLEarts has worked with over 70 professional artists and over 3000 Etobicoke residents of all ages and backgrounds to create free performances, workshops and community events in parks and public spaces. MABELLEarts has worked in TCHC's Dundas Mabelle communities for over 12 years and has built lasting relationships with local residents and the larger community.

MABELLEarts has been conducting programming and special events in Mabelle Park for the last 14 years, Mabelle Park is owned by TCHC and is across from three TCHC buildings.

Over the past four years, MABELLEarts has been able to secure \$800,000 in Section 37 funding from the City of Toronto to transform Mabelle Park. MABELLEarts intends to use these funds to construct the clubhouse described below. Once approved, the group will launch a fundraising campaign to secure the additional funds required to complete a clubhouse to be comprised of a small, multi-purpose arts and culture center that will include two universal washrooms and an indoor/outdoor multi-purpose art and performance space. The clubhouse will serve as a space for tenants to come together, build leadership skills and continue to positively impact their community. It will also create opportunities for residents to benefit from new infrastructure while accessing economic opportunities including micro-business development and employment opportunities.

The basic terms, as outlined in the MOU, are as follows:

- 20 year ground lease at \$1/year for MABELLEarts to construct a permanent clubhouse.
- MABELLEarts is solely responsible for payment of all realty taxes, utilities, maintenance, capital and non-capital repairs, insurance, operating and all other costs with respect to the Leased Premises
- MABELLEarts will be entitled to use portions of the balance of the park (the “open area”) for its programming, with such use not to exceed 25% of the open area, with up to an additional 10 special events per year which can utilize 75% of the open area. However, some of the open area must always be available to TCHC tenants and MABELLEarts’ activities cannot impact the area of the benches in the southerly one third of the park.
- MABELLEarts is entitled to make capital improvements to the open area subject to TCHC’s approval.
- A Park Committee comprised of MABELLEarts staff, TCHC staff, TCHC tenants and a representative from the Councillor’s office will deal with any issues relating to MABELLEarts’ use of the open area, subject to final determination by TCHC if necessary.
- MABELLEarts is required to provide an average of 50 hours of programming monthly to TCHC tenants at no cost.
- TCHC will be obliged to maintain the park as it would for similar areas in the balance of its properties, assuming normal level of usage by TCHC tenants only. MABELLEarts will be responsible for any additional maintenance or cleaning necessitated by its activities.

The Project has been openly discussed with the community through an extensive community engagement process, described in Attachment 2. The Project includes the support of regional staff and the local City Councillor, in addition to the support of tenants in both TCHC and private buildings.

IMPLICATIONS AND RISKS:

To date, MABELLEarts has raised \$862,885 of the \$1.6 million budget projected for construction of the clubhouse. With the approved MOU and Performance Preliminary Project Review Submission (see Attachment 3), MABELLEarts expects to be able to secure the balance of the budget through fundraising. The MOU is conditional on MABELLEarts providing

evidence to TCHC that it has secured all funding needed for construction and to operate the project for at least one year together with a cost estimate that supports the estimated construction budget. MABELLEarts has a period of one year to satisfy this condition so it is possible construction could start sometime in 2022.

MABELLEarts needs to provide evidence it has secured the required funding prior to commencing construction. There is, nevertheless, a risk such funding will not be fully received once MABELLEarts has commenced construction. There is also some risk of cost overruns. This is a risk which cannot be entirely eliminated but TCHC is requesting the construction estimate be confirmed by a cost consultant. Finally, there is a risk construction liens could be registered against the property in the event MABELLEarts has insufficient funds to complete the project or has disputes with its contractors.

The draft MOU provides it is conditional on MABELLEarts relocating an existing water feature to the satisfaction of TCHC. However, there is a risk MABELLEarts will not be able to relocate this at a cost that it can afford.

Amendments to the MOU, which has been settled in draft with MABELLEarts in the form attached, may go some way to mitigating those risks. However, there is no guarantee that the amendments required to mitigate these risks would result in terms that were acceptable to MABELLEarts.

MABELLEarts is responsible for all costs relating to its operations in the leased premises and the open area in the park. TCHC is obliged only to maintain the common area to the standard for similar properties and will not be obliged to undertake further maintenance due to MABELLEarts' activities. In the event TCHC chooses to do so, it is entitled to charge back such amounts to MABELLEarts.

There will be additional persons in the park due to MABELLEarts activities. Pursuant to the MOU, MABELLEarts is required to carry insurance for such risk, to name TCHC on that insurance policy and to indemnify TCHC for any claims against TCHC arising from MABELLEarts' use of the park.

Tenants will lose the use of the area where the clubhouse is located and the parts of the open area where MABELLEarts is conducting its

programming. However, tenants will be entitled to participate in MABELLEarts' programming at no charge. MABELLEarts has also agreed its programming will not impact the use of the benches in the southern one third of the park. MABELLEarts has been conducting these activities in the park for some time with benefit to the tenants. Tenants are aware of this proposal and are in support.

SIGNATURE:

"Sheila Penny"

Sheila Penny
Acting President and Chief Executive Officer

ATTACHMENTS:

1. Binding MOU: MABELLEarts and TCHC
2. MABELLEarts Value Proposition
3. MABELLEarts Preliminary Project Review

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