CITY OF KINGSTON
REPORT TO COUNCIL

TO: Mayor and Members of Council
FROM: Cynthia Beach, Commissioner, Sustainability & Growth
       Brian McCurdy, Director, Cultural Services
       Speros Kanellos, Director, Real Estate & Construction Services
RESOURCE STAFF: Same
DATE OF MEETING: 2009-12-01
SUBJECT: Domino Theatre Accommodations in a City Owned Facility

EXECUTIVE SUMMARY:
Council has provided direction to staff to explore the option of providing accommodation for the Domino Theatre at the Rodden Park Barn or the J.K. Tett Creativity Centre. Staff have been exploring these two options with the Domino Theatre and have been comparing the accommodations preferred by the Domino Theatre along with the costs for renovations and availability of space. After meetings to discuss the other two options, the Domino Theatre has expressed concern that neither of those locations could meet their accommodation requirements. An alternate location proposed by City staff has been investigated.

The Cook Brothers Arena was decommissioned in 2008 and since that time has been used for equipment and vehicle storage, housing City operational staff and existing tenants such as the Boxing Club and the Ponies Baseball team. A repurposing study in 2006 did not draw any conclusions on the best community use for the facility and the Cook Brothers Arena had the least interest expressed by potential community users. The Wally Elmer Arena is being repurposed into a community hub and the Harold Harvey Arena has an existing agreement with the Church Athletic League until 2010 for ongoing use.

Accommodating the Domino Theatre at the Cook Brothers Arena has significant benefits. From a technical and construction standpoint, a repurposed Arena is an excellent site for a community theatre; there are no heritage issues that need to be addressed due to the location of the facility. Nearby, the National Grocers building is being transformed into an arts location thus creating additional opportunities for people who live in the area to participate in a variety of cultural events. The Domino Theatre will use the building extensively bringing activity to the area year-round.

The provision of space for the Domino Theatre at the Cook Brothers Arena achieves a number of municipal goals including:

- Support for the Domino Theatre which has been a tenant of the City of Kingston for over thirty years to continue to provide amateur theatre in an area of Kingston that is need of revitalization;
- Provision of a long term space for the Domino Theatre that was always envisioned as part of the redevelopment of the J. K. Tett Creativity Complex
- Repurposing of a community arena for recreational and cultural uses in an area of the City that would greatly benefit from the availability of these uses
RECOMMENDATION:

That staff be authorized to negotiate the terms of agreement for the accommodation of the Domino Theatre at the Cook Brothers Arena space with final approval of the terms of the agreement to be provided to Council for approval; and.

That staff provide a project budget for the renovations of the Cook Brothers Arena to Council for its approval once the major conditions of the terms of the occupancy have been negotiated; and

That the City enter into an agreement with the Domino Theatre for use of the Cook Brothers Arena for use as temporary storage space for the air conditioning unit that will not be installed until the space is completed in 2010.

AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY COMMISSIONER
Cynthia Beach, Commissioner, Sustainability & Growth

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER
Gerard Hunt, Chief Administrative Officer

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

<table>
<thead>
<tr>
<th>Commissioner</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioner Thurston</td>
<td>N/R</td>
</tr>
<tr>
<td>Commissioner Leger</td>
<td>✓</td>
</tr>
<tr>
<td>Jim Keech</td>
<td>N/R</td>
</tr>
</tbody>
</table>

(N/R indicates consultation not required)
OPTIONS/DISCUSSION:

Accomodations for the Domino Theatre

The Domino Theatre was a tenant of the City for several decades at the J.K. Tett complex until July 31, 2006 when the City sold the building to Queen's University for the development of the Performing Arts Centre. The Domino Theatre then became a tenant of Queen's University. The Domino Theatre occupied the Treasury Building on the J.K. Tett complex; a building attached to the Stella Buck Building comprised of approximately 5,700 square feet. At the time of the sale to the university, Domino's annual base rent was approximately $8,400 annually. The Domino Theatre fit out the space and maintained the internal building over the term of their lease with the City.

Queen's University has indicated that they will only provide space for rehearsal and storage at the present location until December 2010. The City of Kingston has provided the Baby Grand Theatre for performances for use by the Domino Theatre with all rents and fees being applicable.

For the long term, the Domino theatre has requested in a memorandum dated October 9, 2007 and a letter dated May 27, 2009, that the City provide a location that would provide the following:

- Stand-alone building for its exclusive space. Further discussions with the Domino Theatre Board representatives have clarified that they would consider joint usage of washrooms and lobby space provided a suitable location is found;
- Affordable rent;
- Domino Theatre is prepared to take on the upgrading of the interior of a facility to meet the specific requirements for a theatre;
- Domino Theatre has requested that the City pay the cost to prepare a building for occupancy with a separated space which would be leased exclusively for their use;
- Domino Theatre would be prepared to use some common space in a building for accessible washrooms and a common lobby area to be shared with other community groups;
- Domino requests a new space to accommodate rehearsal space, storage space and performance space in one location by December 2010 when their current arrangement expires with Queen's University.

Investigation of the Rodden Park Barns for Conversion to a Theatre

In June 2009, Council requested that staff investigate the accommodation of the Domino Theatre at the Rodden Park Barn. Further work was done with the Domino Theatre to investigate the amount of capital repair and fit out work that would be required to reconfigure the Rodden Barn building into a potential home for the Domino Theatre. While the initial review of the building looked promising for the conversion of the building to a theatre, a more detailed investigation has led City staff to investigate a different option. The Rodden Park Barn would require a substantial investment beyond the initial capital fund to repair the building envelope. The estimated capital investment for the Rodden Barn was $681,000 for the exterior of the building.

Estimates have been completed to determine the costs required to retrofit the Rodden Park Barn into a theatre space. The estimated costs ranged from $1 M to $3.5 M to upgrade servicing and to accommodate interior structural changes that would be required for a theatre use. A number of meetings were held with Domino Theatre representatives which resulted in a conclusion that the cost to convert the Rodden Park Barns to a theatre use would be cost prohibitive for the Domino Theatre.

Investigation of the J.K. Tett Building for a Theatre

Since Queen's University informed the Domino Theatre they were not prepared to accommodate the Domino Theatre in their Performing Arts Centre, the J.K. Tett Building has been investigated as a potential option for the location for the theatre. It is the
recommendation of both staff and the Domino Theatre that this location is not the best location to accommodate their needs for a variety of reasons including:

- The difficulty in providing the required ceiling heights for the theatre in the building would require major structural changes within the building
- The Domino Theatre clearly prefers a location where they have exclusive use of the majority of their space which is not in keeping with the general guidelines established by the Arts Advisory Committee and approved by Council for an arts cluster
- The addition of another performing venue on the site would place a strain on the limited existing parking provided on the site for both City of Kingston tenants and the Queen's University Performing Arts Centre

A letter from the Board of Directors, dated October 19, 2009, indicated that they did not wish to pursue this option any further.

**Repurposing of Cook Brothers Arena**

A concerted effort of individuals working with the Domino Theatre to find a long term location has brought forward the potential of using the Cook Brothers Arena. Conversion of a repurposed arena provided one of the best solutions available for accommodation of a small theatre. The Domino Theatre Board has indicated they do not want to continue to pursue the options of the Rodden Park Barns or the J.K. Tett Building for long term space. The best option for providing a suitable space in a community activity cluster is the repurposing of a City owned arena. Council has directed that the former arenas be repurposed for community such as recreation or arts clusters.

Cook Brothers Arena ceased its operations as an arena facility in 2008. Following its closure, the ice plant system was decommissioned and the concrete slab area has been used as a City storage facility. During the repurposing consultation process in 2006, Cook Brothers arena generated the least community interest of the three (3) arenas being proposed for repurposing. Various ideas and opinions were identified for Cook Brothers arena but there was not a clear community need.

A few programs have remained in the office/building portion of the facility. The Kingston Ponies baseball club still has some storage space and use change rooms during the summer. The Kingston Youth Boxing Club also still use some space/room located on the second floor of the west building portion.

The arena is currently being used for storage and for a few programs including an area for the Kingston Ponies Baseball Club. Groups renting fields during the summer also make use of the washroom facilities. The Corporate Services Group has been using the interior space to accommodate parking lot/equipment maintenance staff. Parking Services staff will relocate at 701 Division Street once the construction of the new municipal operations facility has been completed. It is anticipated that the portion where these staff members would be located in the operations facility could take up to five (5) years to phase in. If Council approves the concept of the Domino Theatre using a portion of the space in the Cook Brothers arena (other uses will continue to exist), a detailed space layout will have to be prepared to ensure that all City uses can also be accommodated during the construction. After the City no longer requires space for operations, other community user groups could be accommodated in the remaining space.

Council provided direction to City staff to find temporary accommodations for the tenants at the J.K. Tett Building who will have to be relocated to other locations during the renovation and retrofit of the building for a period of about two and a half years. The Cook Brothers Arena was identified as an ideal location for looking at temporary accommodations for the Kingston Potters' Guild. Investigation of the building structure is being undertaken to determine what retrofits would be required to temporarily accommodate the potters group in the upstairs, east end of the building. This space is not currently used by other tenants or the City.
The existing land use at the Cook Brothers Arena has been reviewed and it has been determined that the existing zoning would permit the use as a community theatre. There are no existing conditions which would limit use of the facility for use as a community theatre.

A draft project schedule has been prepared in order to provide some structure to the approvals that would be required for Council and the Domino Theatre Board in order to have a space available by the end of 2010 when alternate rehearsal and storage space needs to be found. Table 1 indicates the timelines for approvals which will require concerted efforts by both City staff and the Domino Theatre to ensure the occupancy times can be reached. The table outlines the approvals required for both parties.

Table 1: Draft Project Schedule

<table>
<thead>
<tr>
<th>Date</th>
<th>Milestones</th>
<th>Approvals Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>December, 2009</td>
<td>1. Confirmation on concept for theatre &lt;br&gt;2. Confirmation on scope to be finalized by City/Domino &lt;br&gt;3. Council Report</td>
<td>X</td>
</tr>
<tr>
<td>December, 2009</td>
<td>RFP for Consultants for detailed design and construction documents prepared and issued</td>
<td>X</td>
</tr>
<tr>
<td>January, 2010</td>
<td>Closing of RFP consultants</td>
<td></td>
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<tr>
<td>January, 2010</td>
<td>Council approval of project schedule &lt;br&gt;Council approval of budget &lt;br&gt;Agreement on terms of lease by Domino Theatre Board and City Council</td>
<td>X</td>
</tr>
<tr>
<td>February, 2010</td>
<td>Signed lease agreement between the City of Kingston and the Domino Theatre required prior to award of construction work</td>
<td>X</td>
</tr>
<tr>
<td>February, 2010</td>
<td>Design consultant award work</td>
<td></td>
</tr>
<tr>
<td>May, 2010</td>
<td>Consultant design, documentation, review and approval completed</td>
<td></td>
</tr>
<tr>
<td>May, 2010</td>
<td>RFP for construction issued</td>
<td></td>
</tr>
<tr>
<td>June, 2010</td>
<td>RFP for construction closing</td>
<td></td>
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<tr>
<td>June, 2010</td>
<td>RFP award &lt;br&gt;(may require Council approval)</td>
<td></td>
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<tr>
<td>October, 2010</td>
<td>Access to some of the interior space to be provided to Domino Theatre for fit out of the interior space</td>
<td></td>
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<tr>
<td>November, 2010</td>
<td>Completion of Exterior Building Construction</td>
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</tbody>
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Note: All times are approximate and subject to receiving Council and Domino approvals as indicated.

Description of Concept for the Renovations of the Cook Brother Arena

A general concept for the use of the Cook Brothers Arena with the Domino Theatre as a tenant will be provided at the Council meeting. Much consultation has been done with the Arts Advisory Committee and future tenants of the J.K. Tett Building. It is proposed that the construction and the resulting agreement for use of the space be modelled on the concept discussed for the future tenants of the J.K. Tett Centre. There is some difference in the proposed usage model by the Domino Theatre in that they have a strong preference to have exclusive use for their uses inside their interior space.

A general concept for the building has been discussed with the Domino Theatre which will require the City to undertake a capital renovation of the building in order to provide space inside the building for the exclusive use by the Domino Theatre. The capital
project to repair, winterize and sub-divide the arena building is estimated to cost approximately $1.6 million which would include the responsibilities and costs listed in the Table 2 below.

Table 2: City Capital Expenses for Providing the Building Envelop for use as a Recreation/Cultural Hub

<table>
<thead>
<tr>
<th>Approvals</th>
<th>(Site Plan (if required), demolition permit and building permits)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultant Design Fees</td>
<td>(For the design, designated substance reviews, structural analysis, clean up of any substances to ensure ongoing uses of the building) with normally required fire resistance rating and acoustic qualities, existing sealed concrete floor, primed gypsum board wall finish and existing ceiling finish</td>
</tr>
<tr>
<td>Construction</td>
<td>Creation of a fire separation wall around the exterior of tenant space for use (does not include the creation of any interior walls or second storey space inside the space used by the Domino Theatre)</td>
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<tr>
<td></td>
<td>Creation of temporary facilities to accommodate the City operations now occupying the space,</td>
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<tr>
<td></td>
<td>Base building upgrades including possible replacement of the roof, repair of existing leaks, replacement of tile where necessary, plumbing cleaning and maintenance required and may include some upgrades for accessibility for the space used by the City and other tenants</td>
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<td></td>
<td>Creation of a common corridor wall to allow for access to the main entrance by multiple building users and for the common use of washrooms in the facility as well as additional openings to allow for exclusive use of the space by the Domino Theatre</td>
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<tr>
<td></td>
<td>Extension of the existing sprinkler system for the building and upgrading of fire safety systems for the overall building</td>
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<tr>
<td></td>
<td>Provision of one of the existing gas fired, forced air furnaces and associated duct work and controls for the exclusive use of the tenant</td>
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<tr>
<td></td>
<td>New furnace, ducts and heating requirements in addition to replacement of the electrical service, replacement of external lighting and upgrading of the emergency lighting system, as required</td>
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<tr>
<td></td>
<td>Maintenance improvements of the existing parking area</td>
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<td></td>
<td>Provision of the appropriate common washroom facilities for the building, including accessible facilities</td>
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<td></td>
<td>Domestic (cold) water service to the tenant space in an accessible location. (An existing hot water tank may be made available for tenant use)</td>
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<td></td>
<td>Sanitary sewer connections for the tenant in an accessible location</td>
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<tr>
<td></td>
<td>Over all exterior building security features</td>
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<tr>
<td></td>
<td>The design will attempt to separate the services and utilities for each user group so individual metering is possible.</td>
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</table>
Table 3: Domino Theatre Responsibilities for Outfitting of the Space

<table>
<thead>
<tr>
<th>Responsibility</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interior walls and any second level facilities</td>
<td></td>
</tr>
<tr>
<td>Furnishing Fixtures and Equipment (lighting, seating, stage, curtains, structural support for curtains, lighting and any specialized equipment such as sound equipment used within the space)</td>
<td></td>
</tr>
<tr>
<td>Air conditioning unit for the Domino Theatre Space</td>
<td></td>
</tr>
<tr>
<td>Moving costs</td>
<td></td>
</tr>
<tr>
<td>All internal electrical, plumbing, ventilation, duct work, conduit, wiring and fixtures required inside their space</td>
<td></td>
</tr>
<tr>
<td>Duct work, electrical fit out required for specific fit out of the interior space</td>
<td></td>
</tr>
<tr>
<td>Fire alarm systems and security systems specific to the accommodation of the theatre inside of the space leased for their specific use, if required</td>
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</table>

The description of these responsibilities must have a full vetting with the Domino Theatre and a final schedule of responsibilities of the parties will form a part of the agreement. The scope of City responsibility will be provided to Council for approval. Tables 2 and 3 have not yet been reviewed with the Domino Theatre representatives although a preliminary discussion has taken place.

Additional Information Required

The City has not yet been provided with specific costs for Domino's proposed functional interior renovations. The Domino Theatre has been researching grant applications that may assist them in the affordability of the space. A business plan document has been provided to the City which is still being analyzed by City staff. After only preliminary discussions and analysis, there appears to be a shortfall between the revenue generated by the theatre and the projected overall costs for the ongoing maintenance of the interior of the space as well as any rents that would be collected by the City to pay for overall costs of general and ongoing upkeep of the building for use by the Domino Theatre and other potential community users.

Proposed Terms of Tenancy

It is important that the City look to finding a rent agreement that will work with the financial capability of the Domino Theatre. It will also be important to come forward with a financial plan that fits within the overall objectives for the City in providing financial support for arts and not for profit groups. Given that the theatre space will be used by one organization and will not be available for general community use such as the Baby Grand Theatre, it is proposed that the lease ensure that at a minimum, the maintenance costs for the building are paid for from the lease and the Domino Theatre is responsible for their independent costs related to the use of the facility. Current estimates based on the J.K. Tett Centre and arts cluster buildings in other municipalities estimate a rental fee in the range of $6 to $9 per square foot. While preparing the report for Council on the lease agreement with the Domino Theatre, the municipal policy with respect to the rental of space for arts groups will be evaluated. Options will be proposed for Council that provide a consistent policy for arts groups located in City owned facilities.
The City has brought in a company that has specialized in business planning for arts groups to assist in the preparation of a realistic business plan for the J.K.Tett Building. The current business plan provided by the Domino Theatre represents a difference in overall ability to pay for the costs of maintaining an arts and recreation community centre. The City will have to continue discussions with the Domino Theatre on how an agreement for use of the space in a City owed facility will be consistent with other community facilities.

If the City were to enter into an agreement for use of the space the following terms would apply for any City location as a basis for the agreement:

**Term:** A lease agreement with a term of 10 years with one 10 year renewal option is proposed. This will not require City Council to declare the property surplus to municipal need, but will provide a level of stability that is required for not for profit groups to apply for provincial or federal grants funding.

**Obligations:** The tenant will be responsible for paying a base rent plus all operating costs, including but not limited to, water, sewer, electricity, heating, HVAC repairs and maintenance, a share of snow plowing for parking lots, insurance, plumbing maintenance and repairs, glass replacement, lighting and general building maintenance. The City would be responsible for maintaining the overall building envelope including the roof, foundations, walls, exterior walls and any common areas jointly used by tenants.

**Parking:** The City will be responsible for the lighting, maintenance and a share of snow plowing of the parking lot. Use of the parking would have to be for City staff, all tenants of the buildings and community users of the playing fields in the immediate area. Terms of the agreement will have to address the relative costs for the Domino Theatre related to the parking lot and walkway snow clearing.

**Taxes:** Property taxes if applicable will be paid by the tenant.

**Rent:** There is no existing City policy to support the rental of space to not for profit groups. A rent pricing structure will be determined prior to final presentation of a lease to Council. A final proposal will have to include the ongoing maintenance of the building envelope by the City. The issue of payment of an annual base rent has been a major hurdle that will require consideration for the successful relocation of the Domino Theatre. Failure to collect a base rent will require that the capital maintenance of the overall building be funded from the general tax base as opposed from tenant and user group fees. All community facilities have had a degree of general tax support as the not for profit groups who occupy the buildings provide a degree of community service that has been determined to warrant a degree of public support. The key to finding a successful formula to recognize this will require the Domino Theatre Board and City staff to work together to achieve the appropriate respective shares of organizational financial capacity and public support.

**EXISTING POLICY/BY LAW:**

There is no overall City of Kingston policy related to the leasing of facilities for use by not for profit organizations.

**NOTICE PROVISIONS:**

N/A

**ACCESSIBILITY CONSIDERATIONS:**

The detailed design process for the facility will have to take into account the City of Kingston Facility Accessibility Design Standards. All renovations done by tenants will also have to meet the City of Kingston Facility Accessibility Design Standards.
FINANCIAL CONSIDERATIONS:

All capital renovations at the Cook Brothers Arena are subject to final approval by Council of the budget for construction. Prior to approval of the final budget for construction, it is recommended that an agreement be prepared between the Domino Theatre and the City of Kingston. If for whatever reason, the Domino Theatre decided not to proceed with the lease agreement to use the space, the City would want the flexibility to use the space for other community purposes.

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OTHER CITY OF KINGSTON STAFF CONSULTED:
Lorraine Thibadeau, Leasing Specialist
George Wallace, Director Planning and Development Services

EXHIBITS ATTACHED:
None