



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: September 6, 2006
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VanRIMS No.: 06-3200-10
Meeting Date: October 3, 2006

TO: Vancouver City Council

FROM: Assistant Director of Planning and Managing Director of Cultural Services
in consultation with the Director of Legal Services

SUBJECT: Community Amenity - 700 Hamilton Street (CBC)

RECOMMENDATION

- A. THAT Council authorise staff to enter into an agreement to secure access to an outdoor plaza and a 4,000 sq.ft. multipurpose studio at 700 Hamilton Street for community use at nominal cost and upon such other terms and conditions as outlined in this report and to the satisfaction of the Director of Legal Services and Managing Director of Cultural Services;
- B. THAT Council authorise staff to enter into legal agreements to secure an additional 8,500 sq.ft. of ground floor space at 700 Hamilton Street for the purpose of a community cultural amenity at a nominal rent for the life of the building and on such other terms and conditions as outlined in this report and to the satisfaction of the Director of Legal Services and Managing Director of Cultural Services;
- C. THAT Council approve a sublease of the cultural community amenity at 700 Hamilton Street to the Coastal Jazz and Blues Society on behalf of a consortia of non-profit festival societies for the purpose of operating a shared festival facility at a nominal rent and on such other terms and conditions as outlined in this report and to the satisfaction of the Director of Legal Services and Managing Director of Cultural Services; and
- D. No right or legal obligation is hereby created and none shall arise until execution of the agreements.

GENERAL MANAGER'S COMMENTS

The General Manager recommends approval of A through D.

COUNCIL POLICY

Section 6 of the Downtown Official Development Plan permits certain ancillary facilities to be excluded from the floor area measurement where these uses are of a public service, social or recreational nature in the opinion of the Development Permit Board.

The Amenity Bonus Program, as approved by Council in 1986, provides for the sublease of an amenity bonus space to a Vancouver-based non-profit social service and/or cultural organization at a nominal rate for a term of up to 15 years and includes a series of requirements and obligations of the subtenant with respect to public service and financial management. Subsequently, Council has approved sublease terms of up to 30 years where significant capital fund raising was required.

PURPOSE

This report seeks Council's approval to enter into agreements to secure community amenity facilities offered through the redevelopment of the CBC building at 700 Hamilton Street including community use, the outdoor performance plaza, and multipurpose studio as well as an option to lease and lease of approximately 8,500 square feet of dedicated indoor floor space. The report also seeks Council's approval to sublease the 8,500 sq.ft. indoor space to a group of non-profit cultural festival societies for the purpose of a shared festival facility.

BACKGROUND

On January 16, 2006 the Development Permit Board approved DE409307: an application from the Canadian Broadcasting Corporation to permit alterations and additions to the existing CBC/Radio-Canada building as well as the development of the south (Robson Street) portion of the site with a mixed-use development containing retail and residential uses, with a 21-storey residential tower and a 31-storey residential tower with 450 dwelling units over a retail/residential podium, over five levels of parking.

As part of the development application, the CBC offered periodic community use of their Hamilton Street outdoor plaza and adjacent multipurpose studio for community cultural programming as well as 8,500 sq.ft. of dedicated internal shell-only floor space. The CBC did not seek, nor did the DP Board approve any increase in floor space arising from this proposed cultural amenity. As an amenity however, the indoor floor space was excluded from the FSR calculation.

Among the conditions of the Development Permit approval was a requirement to secure through legal agreements the use of the proposed Community Use spaces as well as the cultural amenity space within the project. This report seeks Council's approval to enter into a series of legal agreements to secure community access to the shared community spaces (outdoor plaza and multipurpose studio) as well as an option to lease and lease of the 8,500 sq.ft. of dedicated amenity space.

Since the DP Board approval, the CBC has undertaken an extensive RFP process and sought proposals from non-profit community groups for the use of the proposed community space. Based on those submissions, the CBC has put forward a two-part proposal:

- Community use of the Hamilton Street Plaza and multipurpose studio; and
- 8,500 sq.ft. dedicated shared festival facility which, subject to Council approval, to be leased to the City for the life of the building and subleased to the Coastal Jazz and Blues Society on behalf of the Vancouver International Children's Festival (Canadian Institute of the Arts for Young Audiences) and the Vancouver Folk Music Festival Society (Festival Users).

A site plan outlining the proposed community use areas is attached to this report as Appendix A.

DISCUSSION

Ensuring access to appropriate and affordable facilities is a challenge for the non-profit sector in any major city. It is especially challenging in Vancouver's real estate market. In order to ensure that the non-profit community can afford to remain part of our neighbourhoods, the City actively seeks opportunities to acquire spaces and access to private spaces through zoning incentive programs such as Community Use Agreements and the Amenity Bonus Program.

Community Use Agreement:

The proposed terms of the Community Use are attached to this report as Appendix B. In summary, the agreement would provide for community access to the Hamilton Street outdoor performance plaza as well as the adjacent multipurpose studio. This will provide much needed affordable performance facilities in the downtown core. The CBC has agreed to provide through a Community Use Agreement access to the Festival Users for a minimum of 5 days per month, use of each of the outdoor plaza and the multipurpose studio in addition to a further 5 days per month to other Vancouver non-profit arts and cultural organizations.

Through this agreement, the Hamilton Street plaza and multipurpose studio will serve as community gathering places, performances venues showcasing Vancouver festivals, and a hub and point of connectivity for people who live, work, study and play in the downtown. Further community use and cultural programming will enhance and contribute to the cultural precinct and connections to the Vancouver Public Library and Queen Elizabeth Theatre Complex.

The terms and conditions of the proposed Community Use Agreement are generally consistent with other such agreements whereby the CBC will be responsible for creating and maintaining the plaza and the multipurpose room, and the non profit users are responsible for all costs associated with their performance/production including any additional operational costs such as security or cleaning incurred by the CBC. In all cases, the City has no financial obligations.

Dedicated Festival Facility

The proposed terms of the agreement between the City and the CBC, and the City and Coastal Jazz and Blues Society on behalf of the Festival Users, are attached to this report as Appendix C and D respectively.

The proposed function of the cultural amenity space is to provide a festival resource centre, a meeting place and a focal point to showcase the Vancouver festival community which has a long history of successful public service but continues to struggle to secure permanent year round facilities. Specifically, the Festival Facility proposes to include:

- a publicly accessible library, box office and resource centre;
- a series of multipurpose rooms suitable for production and administrative meetings; and
- ancillary production support facilities.

The ability to secure permanent year round facilities adjacent to the outdoor performance space and the CBC multipurpose studio means that the festivals can develop a more consistent presence in the downtown core and provide a base of operations from which to mount their annual festivals.

The Festival Facility proposed by the CBC is shell space. There are some washrooms and building systems already in place. The Festival Users have commissioned a space plan and cost estimate to finish the space (\$732,000) and have committed to a fund raising formula to raise the capital funds as well as the funds required to operate the facility.

Staff have reviewed the Festival Users fund raising proposal, and noting that the Coastal Jazz and Blues Society (CJBS) as the largest organization is best able to meet the obligations of occupancy, has recommended to the Festival Users and the CBC, and the Festival Users Board of Directors have all agreed that for the purpose of the agreement with the City, CJBS will be the Subtenant on behalf of all Festival Users.

FINANCIAL IMPLICATIONS

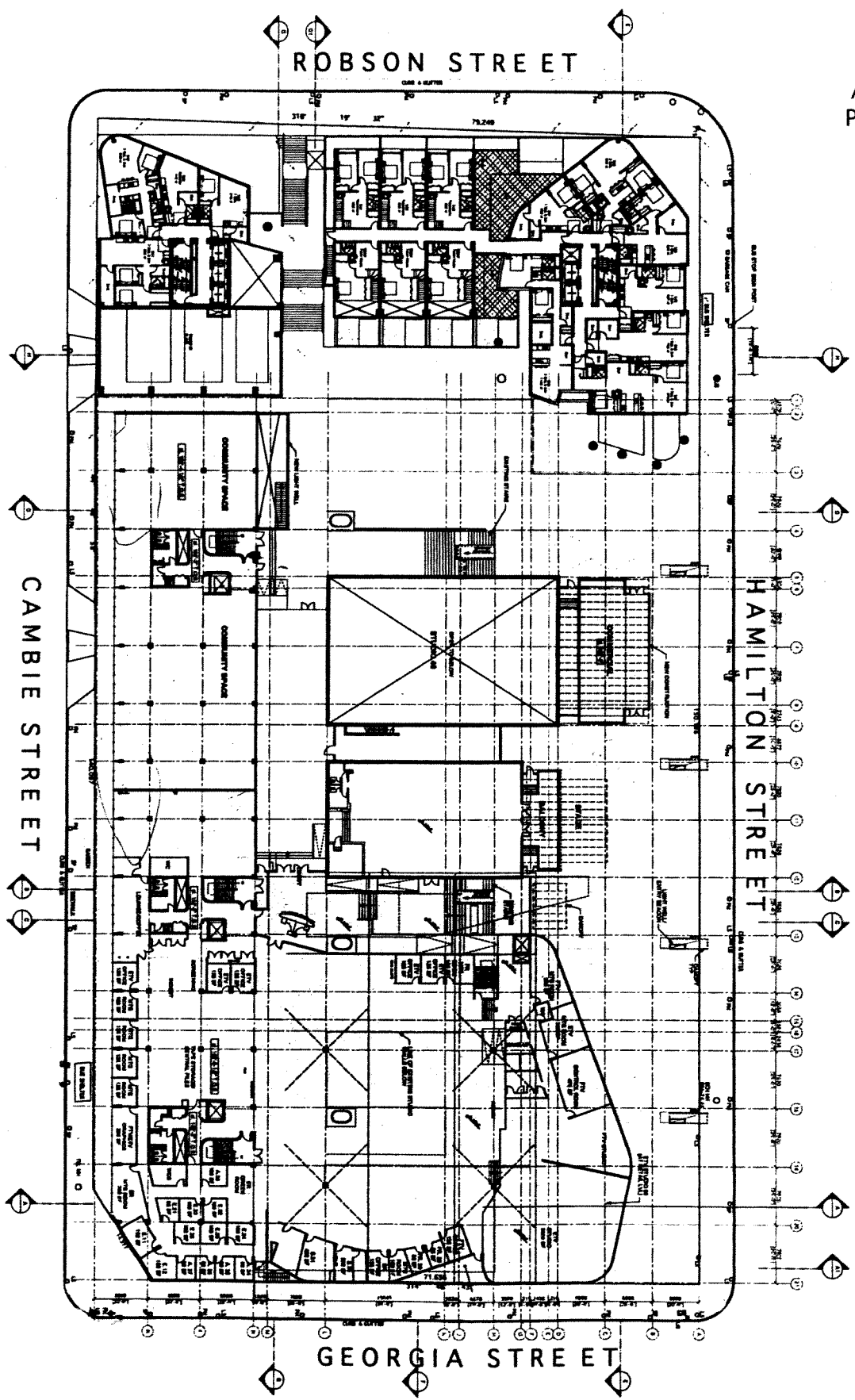
The proposed sublease transfers all of the City's obligation contained in the head lease to the subtenants.

CONCLUSION

Staff recommend approval of the agreements outlined in this report to secure community use and access to an outdoor performance plaza, a multipurpose studio and a dedicated cultural amenity proposed to be used for the purpose of a festival facility. These agreements will confirm and secure for the public a lively and vibrant addition to the City's Cultural Precinct.

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1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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1. Main Level Profile
Scale: 1/8" = 1'-0"

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COMMUNITY USE AGREEMENT
DRAFT TERMS

Term:

Until demolition of the development.

Area:

- CBC Plaza - being the outdoor performance plaza on Hamilton Street and adjacent to the Multipurpose Studio
- Multipurpose Studio - being the CBC studio adjacent to the CBC Plaza
- Ancillary support areas necessary to meet public assembly requirements of the Multipurpose Space (e.g. washrooms)

Community Users:

- Festival Users - being the Coastal Jazz and Blues Society (Vancouver international Jazz Festival) as well as the Vancouver Folk Music Festival Society and the Canadian Institute of the Arts for Young Audiences (Vancouver International Children's Festival).
- Community Users - being other Vancouver-based non-profit organizations with an arts and cultural mandate
- Public - being the general public which may wish to have access to the community use areas.

Hamilton Street Plaza

The Hamilton Street Plaza should be made available for the purpose of public events as follows:

- Festival Tenants will have the ability to book, on a first come, first served basis a minimum of 5 days per month;
- Additionally, Community users will have the ability to book, on a first come, first served basis a minimum of 5 further days per month.
- All events must be open and available to the public without charge.
- All users will be responsible for all related costs.
- CBC may not charge rent or ongoing maintenance charges but may charge for set-up or cleaning associated with the events on a cost recovery basis.
- Events may not interrupt or conflict with the CBC's ongoing activities.

Multipurpose Studio

- Festival Users will have the ability to book, on a first come, first served basis a minimum of 5 days per month;
- Additionally, Community users will have the ability to book, on a first come, first served basis a minimum of 5 further days per month.
- All events must be open and available to the public.
- Events may be ticketed.
- All users will be responsible for all related costs.
- CBC may not charge rent or ongoing maintenance charges but may charge for set-up or cleaning associated with the events on a cost recovery basis.

- CBC will provide at no cost, access to ancillary support areas necessary to meet public assembly requirements.
- Events may not interrupt or conflict with the CBC's ongoing activities.

Termination

Upon demolition or destruction of the building.

Additional Operating Covenants

All other terms and conditions as required by the Director of Legal Services in consultation with the Managing Director of Cultural Services.

DRAFT TERMS OF AGREEMENT
FOR THE CULTURAL AMENITY FACILITY (Festival Facility)
BETWEEN THE CANADIAN BROADCASTING CORPORATION AND
THE CITY OF VANCOUVER

Term

Until demolition of the development.

Area

Approximately 8,500 sq.ft. cultural amenity space adjacent to Cambie Street within the existing CBC building, plus access at no charge on a non-exclusive basis to parking, access and loading in and through the underground parking area of the building.

Use

No restrictions on use.

Utilities and common expenses

Only costs directly associated with the Cultural Amenity Facility and excluding all common area costs. All costs assumed by the city are passed on to the City's Subtenant.

Operating expenses

All costs and obligations related to the operating expenses of the Cultural Amenity Facility will be the responsibility of the City's Subtenant.

Insurance

The Head Landlord shall be responsible for insuring the building against fire and certain other perils.

Subletting, assignment, or mortgaging

City reserves the right to sublet, assign, mortgage or grant licenses of the premises.

Rent

Nominal rent of \$1 per annum.

Taxes, if any

Payable by the City, or its Subtenant.

Utilities and common expenses

Payable by the City who will pass on all costs to their Subtenant. As a convenience the Owner will deal directly with the Subtenant for the purpose of utility and operating expenses only.

Finishing and Fixturing

The Owner to provide a shell space of approximately 8,500 sq.ft. to the satisfaction of the City's Director of Facilities Design & Development and Managing Director of Cultural Services. Finishing, fixturing and furnishing will be will be the responsibility of the City's Subtenant.

Termination

Upon demolition or destruction of the building.

Additional Operating Covenants

All other terms and conditions as required by the Director of Legal Services in consultation with the Managing Director of Cultural Services.

DRAFT TERMS OF SUBLEASE BETWEEN
THE CITY OF VANCOUVER AND THE COASTAL JAZZ & BLUES SOCIETY

Term
Thirty Years

Rent
Nominal rent of \$1 per annum.

Taxes, if any
Payable by subtenant.

Utilities and common expenses
All costs assumed by the city are passed on to the subtenant.

Operating expenses
All costs and obligations related to the operating expenses of the sub leased area will be the responsibility of the Subtenant.

Capital Expenses
The Owner to provide to the City a shell space of approximately 8,500 sq.ft. to the satisfaction of the City's Director of Facilities Design & Development and Managing Director of Cultural Services. All finishing, fixturing and furnishing will be will be the responsibility of the City's Subtenant and subject to prior approval in writing by the City.

Insurance:
The Subtenant shall be responsible for insuring all equipment, fixtures and furniture and shall be required to maintain comprehensive general liability insurance as well as all risk broad form tenant-s legal liability insurance in the amounts and types to the satisfaction of the City-s Director of Risk and Emergency Management.

The Head Landlord shall be responsible for insuring the building against fire and certain other perils. To the extent that these costs are passed on to the City through the Head lease, the City will pass on these costs to the Society.

Third Party Use
No right to assign, sublet, grant mortgages or licenses save and except that Coastal Jazz and Blues Society will enter into an agreement with the Canadian Institute for the Arts for Young Audiences and the Vancouver Folk Music Festival and act as a head sub landlord on behalf of the Festival Users. Prior City approval will be required to alter the makeup of the Festival User group; however, the City will not intervene into the day to day operations and financial relationship between the Festival Users.

Naming Rights
No right to name the Premises (including any portion of the Premises) or the building in which the Premises are situated without the Landlord's prior written approval or approved in

accordance with any policy the Landlord's Council may adopt from time to time in connection with such subject matter.

Use

- A festival box office open and available to the public
- A festival library/resource centre/listening room open and available to the public
- Three multipurpose rooms suitable for workshops, lectures, and meetings – to be made available to all Festival Users as well as other Community users
- The balance of the space may be used for ancillary festival production support
- No general office or storage use will be permitted.

Public Service Objectives

The Subtenant will operate the space for the benefit of the citizens of Vancouver for the purpose of engaging public support and participation in festivals in Vancouver. The Subtenants will create and maintain Public Service Objectives (draft to be provided by the Subtenant for City approval) which shall form part of the Sublease agreement and shall be used by the City as annual and periodic performance measures. The Society may amend the Mandate and Public Service Objectives from time to time with prior written City approval.

The sublease shall identify public access and services including:

- Minimum hours of operation open and available for use by the general public;
- type and range of services;
- process for community input;
- administrative capacity;
- financial accountability; and
- financial viability with evidence of diversified revenue sources.

Further, the Subtenant will be required to make the Festival Facility excluding the box office and ancillary production support available to the non-profit arts and cultural community for a minimum number of days per year on a cost recovery bases.

Termination

Upon demolition or destruction of the building or expiring of the term.

Additional Operating Covenants

All other terms and conditions as required by the Director of Legal Services in consultation with the Managing Director of Cultural Services.