



CITY OF VANCOUVER

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ADMINISTRATIVE REPORT

Report Date: January 28, 2008
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Meeting Date: March 11, 2008

TO: Vancouver City Council

FROM: Managing Director of Cultural Services

SUBJECT: Cultural Amenities - MOU Regarding Disposition of Facility Endowment Funds

RECOMMENDATION

- A. THAT Council authorize the City to enter into agreements among the City, respective foundations and civic cultural amenity tenants who hold or are establishing Facility Operating Endowment Funds, and who may be eligible for matching grants from funds such as the BC Renaissance Fund, to ensure that should a cultural tenant leave an amenity space or cease to exist, the Facility Operating Endowment would be either assigned to the new cultural tenant leasing that space or reassigned to another arts/culture group within one of the City's cultural amenity spaces; and
- B. THAT the Director of Legal Services be given standing authority to execute such agreements on behalf of the City, from time to time, recognizing that they may obligate the City to indemnify one or more of the participating parties, provided that all agreements are drawn to the satisfaction of the Director of Legal Services.

CITY MANAGER'S COMMENTS

The City Manager recommends APPROVAL of A and B.

COUNCIL POLICY

Section 6 (II) of the Downtown District (DD) Official Development Plan (ODP) provides for an increase in the permitted floor space ratio or density of a building, in exchange for public, social or recreational facilities which have a demonstrated need, subject to Council approval. Bonused amenity spaces are leased by the City and subleased to Vancouver-based, non-profit social service or cultural organizations at a nominal rent for a typical term of up to 20 years and include a series of requirements including the obligation to provide community services and benefits accessible to the public, to undertake a fundraising campaign sufficient to pay future operating costs, and to assume all of the City's obligations under the head lease. Occupancy of cultural amenities at a nominal rent takes the form of a grant to the cultural non-profit subtenant and as such required eight affirmative votes of Council.

PURPOSE

This report seeks Council's authorization to enter into agreements among the City, respective foundations and cultural amenity tenants to clarify the disposition of the tenants' associated Facility Operating Endowment Funds should they cease to exist or should they leave the City's cultural amenity space.

BACKGROUND

The City of Vancouver secures amenity facilities using zoning incentives, which provide a developer with additional floor area in exchange for a public amenity for the life of the building. In most cases, this amenity relationship also requires that the developer contribute funds that are used to pay the facility operating costs for a period up to 20 years (the "*Facility Reserve Fund*"). This reserve fund is an important contribution to capacity building for the non-profit tenant leasing the space as it relieves the burden of facility expenses during the early years of establishing itself in a new facility.

Council grants the amenity space to a Vancouver-based non-profit organization by way of a lease at nominal rent, for a typical term of 10 years, renewable for two subsequent periods. The amenity lease is subject to certain terms and conditions, among them (for new cultural amenities), the requirement that the tenant raise an endowment (the "*Facility Operating Endowment*") of sufficient value that it covers future facility operating expenses when the Developer's Facility Reserve Fund is exhausted. The benefits of this arrangement to the non-profit include raising principal and using reinvested interest to grow the endowment; using the promotion opportunities of a new amenity space to aid in fundraising campaigns; and as stated above, alleviating the non-profit's need to budget for facility operating costs during the first years of operation. The benefit to the City is new cultural facilities whose facility operating costs are provided for the life of the building and strong cultural sub-tenants to animate the space and provide important programs and services for City residents and visitors.

DISCUSSION

Several of the City's cultural amenity tenants hold endowments with Foundations like the Vancouver Foundation or VanCity Foundation, including Facility Operating Endowments related to their lease of a City amenity space. In recent years, new funding opportunities have been created that make available matching funds for endowment purposes. An example of these opportunities is the BC Renaissance Fund, administered by the Vancouver Foundation on behalf of the Province of British Columbia, which grants matching funding for endowments to a maximum of \$350,000 per year. In building their Facility Endowments, the non-profits leasing City cultural amenities would like to apply for funding through this program but are currently ineligible. Their ineligibility stems from the requirement by the Renaissance Fund that "...all endowments must be perpetual funds, the income from which is dedicated to arts and cultural practice or operation... If the recipient, for whatever reason, ceases to exist; the income from the fund must continue to be directed to an artistic organization..." Because the City requires that Facility Endowment Funds be linked to amenity spaces but cannot guarantee that a specific space shall remain cultural in perpetuity, these organizations have been precluded from meeting the Renaissance Fund criteria.

In order to resolve this discrepancy and enable cultural non-profit tenants to access matching funds like the Renaissance Fund, an agreement is required among the parties to provide the assurance that in the unlikely event that a cultural amenity tenant moved or ceased to operate, that the City of Vancouver and the respective foundation would have a mechanism to resolve the disposition of the Facility Operating Endowment by either assigning it to a new non-profit arts/cultural tenant in that amenity space, or assigning it to another arts/cultural non-profit in any one of the City's other cultural amenity spaces.

FINANCIAL IMPLICATIONS

This agreement will enable the City's non-profit cultural amenity space tenants to access funding to build facility endowments. This will strengthen the tenants' financial capacity and provide for long-term facility operating funds for City cultural amenities. The City's financial exposure will thus be reduced.

CONCLUSION

Over the last two decades, the City's cultural amenity program has resulted in approximately 15 new publicly accessible cultural amenity facilities. This mechanism presents a unique opportunity for ensuring access to affordable arts and cultural space and activities in a challenging real estate market.

This report seeks Council's authorization to enter into an agreement among the City, respective foundations and civic cultural amenity tenants to clarify the disposition of the tenants' Facility Operating Endowment Funds. Clarification will ensure eligibility for matching funding and will encourage and facilitate the growth and stewardship of Facility Operating Endowments by the City's cultural non-profit tenants.

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