



ADMINISTRATIVE REPORT

Report Date: September 8, 2015
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VanRIMS No.: 08-2000-20
Meeting Date: October 20, 2015

TO: Vancouver City Council

FROM: Acting General Manager of Community Services in Consultation with the General Manager of Real Estate and Facilities Management

SUBJECT: Assignment of Sublease to 110 Arts Cooperative for Premises at #110-750 Hamilton Street

RECOMMENDATION

- A. THAT Council deem 110 Arts Cooperative as an organization contributing to the culture, beautification, health or welfare of the City.
- B. THAT Council consent to the assignment of the nominal sublease for the CBC Cultural Amenity Space at #110 - 750 Hamilton Street, Vancouver (the "Premises"), being a portion of the lands having a legal description of: PID: 027-197-891; Parcel A, District Lot 541, Group 1, New Westminster District. Plan BCP32114, Except Part in Air Space Plan BCP32115, from PuSh International Performing Arts Festival Society to 110 Arts Cooperative, on terms and conditions to the satisfaction of the Director of Legal Services in consultation with the General Manager of Real Estate and Facilities Management and the Managing Director of Cultural Services.
- C. THAT Council authorize the Director of Legal Services to execute any agreements required to assign the sublease for the Premises.
- D. THAT no legal rights or obligations be created or arise by Council's adoption of these Recommendations until the assignment of the sublease has been executed by all parties.

Recommendation B authorizes a grant requiring eight affirmative votes of Council.

REPORT SUMMARY

This report recommends that Council consent to the assignment of the sublease currently held by PuSh International Performing Arts Festival Society ("PuSh") to 110 Arts Cooperative (the "Co-op"). The assignment, if approved, would make the Co-op the lead subtenant of the 8,500 square foot CBC Cultural Amenity Space at #110 - 750 Hamilton Street.

The Co-op was formed in September 2014 to jointly operate and manage the Premises. The founding members of the Co-op were PuSh and three other Vancouver-based cultural non-profit organizations: Touchstone Theatre Society, The Documentary Media Society, and Music on Main Society (the current sub-subtenants). Aside from the change in the subtenant, there will be no change to the operations within the Premises and there are no proposed changes to the sublease. The Premises will continue to be used as a performing/media arts cultural hub, under the same terms and conditions as the original sublease.

The sublease to PuSh commenced on January 1, 2015, for an initial term of ten (10) years, with four (4) options to renew each for a further term of five (5) years, for a total tenure of thirty (30) years. The basic rent under the sublease is a nominal rent of ten (\$10.00) dollars for the term or any renewal term (inclusive of payment in lieu of property taxes), payable in advance, plus applicable taxes. The CBC, as head landlord, has consented to the assignment of the sublease to the Co-op.

Pursuant to Section 206(1)(j) of the Vancouver Charter, not less than two-thirds of all members of Council must approve a resolution for a grant to any organization deemed by Council to be contributing to the culture, beautification, health or welfare of the city. The sublease is for City property at less than market rent and is considered to be a grant, so the assignment of the sublease effectively assigns the grant, which requires Council approval.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

- 2008 Capital Plan / 2013 Cultural Strategy
- 2008 Cultural Facilities Priorities Plan / 2014-2018 Cultural Directions
- In October 2006, Council authorized (RTS 06250) a lease of 8,500 square feet of shell-only ground floor space within the CBC complex at 700 Hamilton Street from CBC for the purpose of a community cultural amenity. The space was provided by CBC at a nominal rent for the life of the building as part of the CAC negotiations for the redevelopment of the CBC property.
- In February 2014, Council approved (RTS 10458) PuSh International Performing Arts Festival Society as a not-for-profit subtenant, along with Touchstone Theatre Society, The Documentary Media Society, and Music on Main Society as not-for-profit sub-subtenants, of the Premises, and authorized the Director of

Real Estate Services to negotiate and execute a sublease at a nominal rate with PuSh as a not-for-profit cultural subtenant of the Premises.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The Acting General Manager of Community Services RECOMMENDS approval of the foregoing recommendations.

REPORT

Background/Context

In 2008 Vancouver's Culture Plan and Cultural Facility Plan were adopted by City Council outlining the City's vision, goals and priorities for arts and culture in Vancouver. The 2008-23 Cultural Facilities Priorities Plan outlined strategies and tactics for enabling the sustainable creation and operation of cultural infrastructure. Cultural facilities are essential to every community, and ensuring access to appropriate and affordable facilities in Vancouver's rapidly developing real estate market is a challenge, particularly for the non-profit sector. A key priority of the 2013 Cultural Strategy, reinforced in the 2014 Cultural Directions, is to actively build partnerships to support affordable, sustainable long-term facilities for Vancouver's arts & cultural community.

Strategic Analysis

In August 2013, a Request for Expressions of Interest (RFEI) was issued seeking applications from Vancouver-based non-profit cultural organizations qualified to lease and operate the 8,500 square-foot CBC Cultural Amenity Space at #110 - 750 Hamilton Street. Through the evaluation process, PuSh was selected and approved by Council to be the subtenant and Touchstone Theatre Society, The Documentary Media Society, and Music on Main Society as not-for-profit sub-subtenants (the "Sub-subtenants").

Following Council approval in February 2014, a sublease agreement was entered into between the City and PuSh. The initial term of the sublease is for ten (10) years commencing January 1, 2015, with four (4) options to renew for a further term of five (5) years each. The basic rent is nominal rent of ten (\$10.00) dollars for the term or any renewal term (inclusive of payment in lieu of property taxes), payable in advance, plus applicable taxes.

The four organizations occupying the Premises, consisting of PuSh and the three Sub-subtenants, formed 110 Arts Cooperative, a community service cooperative incorporated on September 15, 2014 under the Cooperative Association Act with the intention of jointly operating and managing the Premises. Unlike PuSh, which is a registered charity, the Co-op is a welfare organization that was formed to contribute to the culture of the City. The Co-op has provided the City with its Certificate of Incorporation and Memorandum of Association which sets out the purposes for which the Co-op was formed. These purposes include providing cultural amenities like the Premises, to its member and other arts organizations and individuals where they can develop, prepare, exhibit, present or perform their artistic works. Following approval

of the assignment of the sublease from the boards of directors of both PuSh and the Co-op, the organizations submitted a formal request to the Managing Director, Cultural Services, that the City consent to assignment of the sublease from PuSh to the Co-op. Both PuSh and the Co-op are in good standing.

The sublease provides for the City's consent to the assignment of the sublease to the Co-op, subject to the written consent of the Head Landlord CBC and subject also to City Council approval. The CBC has given their written consent to the assignment of the sublease from PuSh to the Co-op.

Financial Implications

Under the terms of the head lease between the CBC and the City, the City (as tenant) is responsible for all of the operating costs and additional utilities costs for the Premises, as well as directly-metered electricity and any other utilities directly serving the Premises. Under the terms of the sublease between the City and PuSh, these responsibilities are passed through to PuSh (as subtenant), as well as repair and maintenance obligations for the Premises in accordance with the Service Level Agreement which forms part of the sublease.

With the assignment of the sublease from PuSh to the Co-op, the Co-op will become the subtenant and as such will assume all of the rights, obligations and responsibilities of the subtenant under the sublease.

Legal Implications

The assignment will be effected by an assignment and assumption agreement to be reviewed by Legal Services, by which PuSh will assign its sublease interest to the Co-op, the Co-op will assume the obligations of PuSh under the sublease, and the City will provide its consent to the assignment. While most lease assignments consented to by the City can be executed by the Director of Legal Services, the nominal sublease was a grant to PuSh and the assignment of the sublease is effectively an assignment of the grant, which requires Council approval. No changes to the sublease are proposed.

CONCLUSION

Building partnerships to support affordable, sustainable long-term facilities for Vancouver's arts and cultural community is a key strategic direction for the city of Vancouver. By approving the recommendations in this report, Council will support the four organizations who are members of the Co-op in their efforts to develop and operate a sustainable collaborative hub for performing and media arts.

The sublease of the Premises to PuSh is currently in good standing, and staff recommends the assignment of the sublease from PuSh International Performing Arts Festival Society to 110 Arts Cooperative.

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