



## REPORT

Report Date: March 2, 2020  
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VanRIMS No.: 08-2000-20  
Meeting Date: March 31, 2020

TO: Vancouver City Council

FROM: General Manager of Arts, Culture and Community Services in consultation with the General Manager of Real Estate and Facilities Management

SUBJECT: Modification of Lease for AIDS Vancouver at 1101 Seymour Street

### **RECOMMENDATION**

- A. THAT Council authorize the Director of Real Estate Services to negotiate and execute the modification of an existing lease (the "Lease") with the Vancouver AIDS Society (AIDS Vancouver or "AV") at 1101 Seymour Street (the "Leased Premises"), by:
- i. Removing the 2nd floor portion (3,985 square feet of exclusive use area) from the Leased Premises and replacing it with the entirety of the 4th floor (4,543 square feet of exclusive use area), thereby increasing the total exclusive use area of the Leased Premises by 558 square feet (new total of 5,341 square feet);
  - ii. Revising Section 1.06 of the Lease to increase the Rent payable for the remainder of the initial 5 year Term by \$17,378 per annum for a new total of \$166,639 per annum, or \$13,886.58 per month, plus applicable sales taxes;
  - iii. Revising Section 1.08 of the Lease to increase the maximum amount of utilities costs (heat, water, sewer and electricity for the Premises) included in the Rent to \$15,224 per annum for the remainder of the initial 5 year Term;
  - iv. Revising Section 14.01 of the Lease to increase commensurately the Rent payable under the 5 year Renewal Term to a total of \$183,303 per annum, or \$15,275.25 per month, plus applicable sales taxes;
  - v. The modification of lease (the "Modification") shall take effect on the first day of the month following completion of the move by AV from the 2<sup>nd</sup> to

the 4th floor, allowing a reasonable period of time for any minor alterations required on the 4th floor; and,

- vi. The Modification shall otherwise be on the same terms and conditions set out in the Lease, and upon such other 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 General Manager of Arts, Culture, and Community Services;

FURTHER THAT, as the rent for the additional floor area to be included in the premises will be below the applicable market rate and includes rent-in-lieu of property taxes, Recommendation A constitutes a grant valued at approximately \$9,400 per annum based on the current year of the Term.

- B. THAT no legal rights or obligations be created or arise by Council's adoption of Recommendation A until the Modification has been executed by all parties.

Recommendation A requires 2/3 affirmative votes of all Council members, per the *Vancouver Charter* S. 206 (1).

### **REPORT SUMMARY**

The fourth floor of 1101 Seymour Street has been recently vacated by Positive Living BC. The fourth floor, which is 558 square feet larger than the area AV currently occupies on the second floor, is more suitable for AV's operations, which are expanding. Staff is recommending that the fourth floor, including the extra space, be rented to AV at the same rate per square foot as AV is currently charged for the second floor.

### **COUNCIL AUTHORITY/PREVIOUS DECISIONS**

The Lease with AV for certain portions of 1101 Seymour Street was approved on September 20, 2016 (RTS No. 11605).

Leases that are provided at less than market rent are considered equivalent to a grant to the Society and therefore require approval by eight affirmative votes of Council per section 206 (1) Vancouver Charter. AV is a registered charity so this grant is pursuant to Section 206 (1)(a) of the *Vancouver Charter*.

### **CITY MANAGER'S/GENERAL MANAGER'S COMMENTS**

The City Manager recommends approval of the foregoing.

### **REPORT**

#### ***Background/Context***

Built in 2017, 1101/1105 Seymour Street is a 15 storey City-owned facility achieved through a community amenity contribution (CAC). It includes 4 floors of social-service space (1101) with 81 units of non-market rental housing above (1105). AV and Positive Living BC, which both

serve people with AIDS, along with SWAN Vancouver (serving sex workers) and Aunt Leah's (serving foster youth), currently lease space in the social service component of this facility. Positive Living BC has occupied all of the third and fourth floors of the facility, except for space rented to Aunt Leah's on the third floor. Positive Living has also occupied a meeting room on the second floor and a space used as a dental clinic on the first floor. AV has occupied the entire second floor except the Positive Living meeting room. AV also occupies a space on the first floor used as a food bank.

On January 28, 2020, Positive Living notified the City of its intention to shut down its operations as of March 31, 2020 due to significantly decreased funding support, and in so doing terminating its lease. AV has since decided to deliver a number of Positive Living's programs and services under its umbrella. Approximately twelve Positive Living staff (five full-time and seven part-time) will also move from Positive Living to AV.

After analysing its new space needs, AV concluded the fourth floor would be better suited to accommodate its expanded programs and staff. The fourth floor is better configured and would require fewer tenant improvements than would the second floor. As well, many of those served by Positive Living's programs are already comfortable with the fourth floor layout.

### **Strategic Analysis**

AV provides valuable social as well as health-related services to the community of people dealing with AIDS and with mental health, addiction and other issues. Based on AV's space needs analysis, City staff have approved AV's move from the second to the fourth floor.

AV currently occupies a total of 4,783 square feet - 3,985 square feet on the second floor as well as 798 square feet on the first floor where AV's food bank operates. The fourth floor is 4,543 square feet. The difference in area between the second floor (3,985 sq. ft.) and fourth floor (4,543 sq. ft.) is 558 square feet. Table 1 provides an overview of the changes expected to take place after AV moves, possibly as early as May 1, 2020, though the timeframe may be adjusted depending on the time required for AV to complete some minor alterations to the 4th floor:

	Floor 1		Floor 2		Floor 3		Floor 4		Totals	
	Current	Revised	Current	Revised	Current	Revised	Current	Revised	Current	Revised
<b>AIDS Vancouver</b>	798	798	3,985	0	0	0	0	4,543	4,783	5,341
<b>Positive Living BC</b>	508	0	816	0	3,383	0	4,543	0	9,250	0
<b>New Operator(s) (TBD)</b>	0	508	0	4,801	0	3,383	0	0	0	8,692
<b>Total Area (sq ft)</b>	1,306	1,306	4,801	4,801	3,383	3,383	4,543	4,543	14,033	14,033

Under the Lease, AV pays rent equivalent to a rate of \$31.20 per square foot (gross), and it is recommended that the same rate be applied for the incremental 558 square feet it will occupy on the fourth floor.

***Implications/Related Issues/Risk***

The closure of Positive Living and the move of AV from the 2nd to the 4th floor will leave vacant the entire 2nd floor and approximately two-thirds of the 3rd floor of 1101 Seymour Street (the other third being occupied by Aunt Leah's). Social Policy and Projects will initiate a request for proposals process as soon as is practicable, seeking social non-profits who are fulfilling Council objectives. Staff is also exploring potential new operators for the dental service currently on the first floor. If a suitable operator cannot be found, staff will seek a non-profit who can use the dental clinic space to achieve other Council objectives, either as part of the request for proposals for the 2nd and 3rd floor or separately. Staff will bring recommendations for non-profit operators to Council for approval at a future Council meeting.

***Financial***

The amendment to the Lease for AV will result in \$17,378 in additional annual lease costs to AV for the remainder of the initial lease term (2.5 years). A review of AV prior year financial statements indicates that AV will be able to support the additional costs related to the amended lease.

Should Council approve Recommendation A, the proposed additional rent at below market rates represents a grant to AV of approximately \$9,400 per annum based on the current year of the Term.

***Legal***

Staff has the authority to approve the move by AV to the fourth floor. Since the proposed rent to be charged for the 558 extra square feet on the fourth floor is below market rent and hence constitutes a grant, Council approval is required.

The proposed changes to AV's Lease as provided in Recommendation A, if approved, will be instituted via a modification to the Lease.

***CONCLUSION***

AV plays a vital role in supporting people with AIDS and this role will only increase in importance with the closing of Positive Living BC. The proposed relocation of AV within the building will provide a secure, effective and affordable facility base for AV's programs and services.

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