



## CITY OF VANCOUVER

### ADMINISTRATIVE REPORT

Report Date: September 30, 2005  
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RTS No.: 5248  
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Meeting Date: October 18, 2005

TO: Vancouver City Council

FROM: Director of Social Planning in Consultation with Directors of Legal Services, Real Estate Services and Facilities Design and Management.

SUBJECT: Lease for Child Care at 1616 Bayshore Drive. Lot V, LMP 45854, 36, except Plan Part in BCPS715 of the Public Harbour of Burrard Inlet.

#### RECOMMENDATION

- A. THAT Council approve a five-year lease for the child care space at 1616 Bayshore Drive, to the Vancouver Society of Children's Centres (VSOCC), renewable for two further five-year terms, for the purpose of a 49-space licensed child care centre, at a nominal rate (\$1), subject to terms and conditions as outlined in this report and on terms satisfactory to the Directors of Social Planning, Legal Services, Real Estate Services and Facilities Design and Management.
- B. THAT Council authorize the allocation of \$7,500 to the Facilities Design and Maintenance annual operating budget for maintenance services, without offset starting in 2006, subject to the 2006 Budget process.

#### GENERAL MANAGER'S COMMENTS

The General Manager of Community Services RECOMMENDS approval of A, and B.

## COUNCIL POLICY

On October, 1990, Council approved the Civic Childcare Strategy, which included two actions related to child care as conditions of rezoning:

“Require, where appropriate, construction and equipping of child care facilities as a condition of rezoning in commercial, retail, and residential developments”;

“Approve, in principle, the option of obtaining agreement from the developer for the construction of child care facilities and the establishment of an on going operating fund to subsidize childcare services, as part of the rezoning process.” (This policy direction was confirmed by Council on April 16th, 1991.)

In November, 1991, Council required, as a provision for rezoning of the Bayshore Lands, the provision of a fully furnished daycare facility for 47 children, as determined by the requirements for both the commercial and residential components, and its conveyance to the City; all of the foregoing to be at no cost to the City; the facility shall comprise 5,200 sq feet of indoor space and 5,600 sq feet of immediately adjacent, fenced and equipped outdoor play space and must meet all requirements for community care and daycare facilities and the licensing thereof.

In January, 1993, Council approved child care operating contributions as a condition of rezoning for the Bayshore Development.

In June, 1993, Council directed that City-owned properties, occupied by non-profit organizations, be held as assets in the Capital fund and be charged a nominal rent.

The lease/sub-lease/license of City assets below market value constitutes a grant and, as such, requires eight affirmative votes.

In September, 2003, Council directed staff to utilize the framework for agreements outlined in the September 11, 2003, report for all future leases/sub-leases/licenses to non-profit organizations occupying capital assets.

## PURPOSE

The purpose of this report is to seek Council's approval to enter into a lease with the Vancouver Society of Children's Centres, to operate a 49-space licensed child care centre, consisting of 12 infants, 12 toddlers and 25 three to five year old spaces in the new Bayshore Gardens Children's Centre. It also seeks Council's approval for an addition of \$7,500 per year for City maintenance services.

## BACKGROUND

The requirement for the provision of a child care facility was a condition of rezoning for the Bayshore Lands that took place in 1991. This rezoning required the construction, finishing, furnishing and equipping of a 47-space child care facility of approximately 952 sq. m. (484 sq. m. usable outdoor space and 468 sq. m. indoor space). At this time, staff recommended that the developers be required to build a 37-space program, pay an operating contribution in lieu of the 10 spaces, and pay \$2,000 per space for start up costs. The developers did not wish to

contribute to operating and start-up costs; however, they offered to build and operate the 47-space child care facility. Council agreed to this proposition and laid out a number of terms, including that the developers would operate the required 47-space child care facility under non-profit auspice. If the developer chose not to operate, the City would take ownership and sub-lease to a non-profit society and the developer would be required to pay a lump sum to the City for ongoing operating costs.

In 2004, the new owner of the site (Blue Tree Hotels Investment) decided to fulfil its monetary obligation in lieu of operating the child care facility. They paid a lump sum of \$391,160.52 to the Childcare Endowment Fund and released the agreement to operate the centre on the understanding that the facility would be turned over to the City fully fit, furnished and equipped. Staff will seek licensing approval for 49 spaces, given the staff-child ratio is more financially viable. The facility is under construction and staff recommends entering into an agreement to lease it to the Vancouver Society of Children's Centre that operates most of the City-owned child care facilities in the downtown core.

## DISCUSSION

In order for VSOCC to operate the child care programs in Bayshore Garden's Children's Centre, City staff must have Council's approval to enter into a lease agreement. Staff are recommending that the City enter into a lease agreement with VSOCC, on the terms and conditions set out in APPENDIX A, approved by Council in September, 2003. VSOCC will run a 49 space program, 12 infants, 12 toddlers and 25 3-5 years olds.

The demand for child care in the downtown core is high, especially for infant and toddler care. Currently, VSOCC has approximately 1,500 families on their waitlist.

## FINANCIAL IMPLICATIONS

As with other City-owned child care centres, the City's Building Services staff will provide basic preventative maintenance services. The annual cost of this service is estimated initially at \$7,500 per year (strata fees, insurance costs and graffiti removal costs not included). This estimated cost will increase as the facility ages and will require adjustment.

RECOMMENDATION B seeks an increase to Facilities Design and Management annual operating budget. Anticipated occupancy is January 2006.

## CONCLUSION

Staff support a lease agreement of 1616 Bayshore Drive between the City and VSOCC for the purposes of 49-space licensed child care facility. In addition, staff recommend the addition of \$7,500 per year to the Facilities Maintenance annual operating budget.

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**Category 1: Childcare Facilities (City owns/leases building and land)**

Agreement between the City of Vancouver (the "City")  
and  
\_\_\_\_\_ (the "Society")

**DRAFT TERMS**

**Term:** Five years commencing \_\_\_\_\_ renewable for two further five year terms.

**Rent:** \$10.00 payable in advance

**Premises:** \_\_\_\_\_

**Lease/Sublease/License:**

The City to grant:

- a lease/sublease/license of the Premises as shown on plans to be appended to the Agreement, such plans to be provided by the \_\_\_\_\_ for the purposes set out in the Use section below.
- the Agreement will not be registered in the Land Title Office.

**Use:**

The permitted use of the Premises is restricted to:

- the operation of a licensed childcare/ child development facility (the "Facility") within the Mandate and Public Service Objectives established by the Society appended to the Agreement as a schedule and approved by the City (see below); and
- purposes necessarily incidental to the operation of a Facility and permitted within the applicable zoning.

**Public Service Objectives:**

As part of the Agreement, the Society's Mandate and Public Service Objectives (draft to be provided by the Society for City approval) shall be included and 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 Agreement shall identify Public Service Objectives including:

- hours of operation;
- licensed capacity and numbers of children to be served by age on both full time and, if applicable, part time basis;
- type and range of childcare and child development services;
- process for parental input;
- administrative capacity;
- financial accountability;
- financial viability with evidence of diversified revenue sources; and
- quality, accessibility and affordability.

**Laws, Regulations and Requirements**

The Society shall comply with all laws and regulations relating to its operation of a Facility and shall provide evidence with such compliance on request by the City. The Society shall also comply with any requirements imposed on the Society by the City as Landlord in connection with the Society's operation of the Facility on the Premises including the obligation to comply with all federal, provincial and municipal laws and by-laws including the British Columbia Human Rights Code which prohibits discrimination in many areas including in publications which are likely to expose a person or a group or class of persons to hatred or contempt because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or that group or class of persons. If there is a head lease, the Society shall be obliged to observe and comply with the applicable terms of the head lease in order that the City is not in default under the head lease.

**Sponsorship and Naming Provisions**

The Society shall not name or rename the Premises and/or any licence area or any portion of either nor sell the right to name or rename the Premises and/or any licence area or any portion of either without first having the City's written consent which may be withheld in its sole discretion."

**Rentals:**

The Society may contract with third parties for occasional use of the Premises periodically as set out in an Occasional Third Party Use Policy that shall form part of the Agreement and shall be subject to City approval, unless prohibited by the head lease, if any. All such rentals will be required to be appropriate to, and support the Mandate of the Society. The Society may not assign or sublet any portion of the Premises without the City's prior written permission.

**Insurance:**

The City will insure the building against fire, vandalism etc. as determined by the City's Director of Risk and Emergency Management. The Society 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.

**Utilities, Janitorial, Maintenance and Repairs:**

A Service Agreement shall form a Schedule to the Agreement and shall itemize both City and Society obligations for utilities, security systems, telephone, janitorial, maintenance and repairs.

In general, the Society shall be responsible for all utilities, security systems, janitorial services, minor maintenance and repairs such as lighting and appliance replacement and repairs, etc. and the City, subject to the availability of resources, shall be responsible for preventative maintenance and major capital repairs such as roof replacement, building envelope repairs, foundations, infrastructure services (water, sewage, power) and building systems (excluding security systems). The City reserves the right to not rebuild in the event of substantial destruction of the Premises or of the building housing the Premises.

The Society shall be required to set aside an adequate maintenance reserve within its annual operating budget to meet the obligations in the Agreement.

**Improvements:**

Prior to the Society making any alterations, erections or modifications (hereinafter collectively referred to as "Improvements") to the Premises, the Society shall obtain the City's written consent. In giving its consent, the City may such attach conditions or deadlines as it sees fit and the Society shall be responsible for all cost of Improvements, and claims or liabilities of any kind arising from the Improvements.

**Reporting to the City:**

On or before December 31 of each year, or at any time requested by the City, the Society will provide to the City the following:

- Board-approved financial statements for the previous year, prepared at the Society's expense by an accounting professional. Such statements shall include all operating, capital, maintenance reserve and special purpose funds and shall itemize administrative and program costs;
- 1. · a balanced annual budget including an estimate of all revenues and expenditures;
- a summary of activities for the past year demonstrating how the Society has fulfilled its Public Service Objectives;
- evidence of a functioning/governing Board of Directors; and
- a summary of planned activities for the coming year. Further, if requested by the City, the Society shall submit to the City minutes of all Board meetings.

**Indemnification:**

The Society shall indemnify the City for any costs, losses, suits, or expenses incurred by the City arising as a result of the Society's use and occupation of the Premises and related City property.

**Early Termination:**

The City may terminate the Agreement prior to the end of the Term on the happening of any one or more of the following events:

- the Society is in default on any payments owed to the City following 30 days notice;
- termination of the head lease, if any;
- the Society defaults in performing any other provision of the Agreement, including, without limiting the generality of the foregoing, failure to comply with any laws or regulations relating to its operation of a childcare/child development facility;
- the Premises are not operated as a childcare/child development facility for more than 30 days without the City's prior written consent;
- the Premises are not used in the operation of a childcare/child development facility to the satisfaction of the City;
- the Society becomes bankrupt, is wound up or dissolved;
- by mutual consent; and/or
- substantial destruction of the Premises or the building in which the Premises are situated

**Options to Renew:**

The Society may only exercise its options to renew if it is in good standing under the Agreement.

**Additional Provisions and Qualifications:**

The Agreement shall contain such other terms and conditions as may be satisfactory to the City's Directors of Legal Services, Real Estate, Facilities Design & Development, Social Planning and Risk and Emergency Management, it being noted that no rights or obligations hereby arise or take effect until the Agreement has been executed by both the City and the Society. The foregoing represents typical terms and provisions. The City reserves the right to vary such terms and provisions in its sole discretion depending upon the individual tenant as well as the individual premises that are being leased/subleased/licensed.