

Date: May 5, 2010



**TO:** Board Members – Vancouver Park Board  
**FROM:** General Manager – Parks and Recreation  
**SUBJECT:** Theatre Under the Stars - New Licence Agreement

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## RECOMMENDATION

- A. THAT the Board approve a 5 year operating agreement from May 1, 2010 to April 30, 2015 with a 5 year option to Theatre Under the Stars (TUTS) to occupy the Malkin Bowl which includes provisions to sublet the venue subject to the approval of the General Manager.*
- B. THAT the Board endorse in principle the establishment of a Capital Reserve for the Malkin Bowl with TUTS paying the Board an annual capital improvement fee as outlined in this report, subject to the approval of the City's Director of Finance.*
- C. THAT all legal documentation is to be in a form which is satisfactory to the Director of Legal Services and the General Manager.*
- D. THAT the General Manager be authorized to execute and deliver such documentation on behalf of the Board.*
- E. THAT no legal rights shall arise and no consents, permissions or licenses are granted hereby and none shall arise or be granted hereafter unless and until all contemplated legal documentation has been executed and delivered by all parties.*

## BACKGROUND

Theatre Under the Stars, also known as TUTS, started in 1934 in an outdoor band shell (Malkin Bowl) in Stanley Park for summer afternoon concerts of choral or orchestra music. In 1939 drama and music programs were financed by City Council and the Vancouver Tourist Association under the guidance of the Board and the Local Council of Women. This led to a group of local theatre people forming a “not for profit society” called ‘Theatre Under the Stars’ to produce quality musicals during the summer.

At first their use of the site was based on an annual approval from the Board which was formalized in 1985 with an Agreement of Understanding. In 1994 the Board's approval was extended to 5 year agreements.

In 2007 the Board approved a three year licence agreement for the 2007-2009 seasons for TUTS to occupy the Malkin Bowl with a provision to sublet the venue subject to the approval of the General Manager. The Board also approved the installation of a temporary new structure to incorporate patron admissions and concessions for food, beverages and merchandise.

## **DISCUSSION**

Both TUTS and the Malkin Bowl have a long and colorful history with providing summer entertainment in the form of popular musical productions to Vancouver audiences. Outdoor theatre is a wonderful experience for both our citizens and visitors to Vancouver and many people visit Stanley Park each year to take in one or both productions.

In 2010 the Board was successful in obtaining a Federal Infrastructure grant for \$300,000 to match our capital plan allocation of \$300,000 bringing the total project budget including all fees and contingencies to \$600,000. A building committee comprising of Board and TUTS staff have met with the architects (Birmingham & Wood) to discuss the preliminary program of renovations to the Bowl:

- Providing a means to close the stage opening with an operable door that secures and weather proofs the stage and can be easily opened and closed
- Options for winterizing the Bowl by insulating and heating the building
- Renovations to the washrooms and dressing rooms and other back of the house spaces
- Weatherproofing the orchestra pit
- Investigating the possibility of providing an operable fabric covering for a portion of the audience

Over and above these improvements is a list of enhancements to the Bowl that have been put forward by TUTS. They have been asked to supplement the project budget by creating a Capital Improvement Fee and by initiating a fundraising campaign to solicit donations to the Malkin Bowl improvements.

## **Capital Improvement Fee (CIF)**

### **TUTS**

TUTS have agreed to charge a CIF of \$1.00 to all theatre patrons for the first 5 years of this agreement. With an average attendance of 25,000 over the past 3 years the contribution would be approximately \$25,000 per year.

### **Outdoor Concerts**

Live Nation, the main concert promoter to use the Bowl, have agreed to pay a CIF of \$1.00 in 2010 and \$2.00 for the following four years. With an attendance of 17,000 last year the same numbers would generate an additional \$17,000 in 2010 and \$34,000 from 2011-2014. Other concert promoters or organizers of productions who rent the Bowl from TUTS will also have to pay the CIF.

### **Commercial Bookings**

TUTS have agreed to pay the Board 10% of any other commercial rentals of the Bowl.

### **Non-Profit or School Use**

In order to encourage the year-round use of the Bowl by non-profit organizations and school groups it is recommended that the Board not charge any rent and that TUTS keep their facility charges as low as possible for these organizations.

In summary, the CIF over the next 5 years would result in the following minimum payment of \$278,000 to the Board:

	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
<b>TUTS</b>	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000
<b>Concerts</b>	\$17,000	\$34,000	\$34,000	\$34,000	\$34,000
<b>TOTAL</b>	\$42,000	\$59,000	\$59,000	\$59,000	\$59,000

### **Fundraising**

TUTS have also indicated they will commence a fundraising campaign to supplement the CIF with additional funds being directed to the capital improvement program for Malkin Bowl.

### **Key Responsibilities under the Licence Agreement**

- All costs and expenses in connection with the productions
- Ongoing maintenance and repair
- Safety and security measures
- All utilities
- Insurance as required by the City

On April 20, 2010 the Board's Services and Budgets Committee endorsed the new licence agreement with TUTS.

### **SUMMARY**

TUTS have been an institution on the Vancouver theatrical scene for over 65 years and the Park Board has always been supportive of their outdoor shows in Stanley Park.

The Board's capital plan funds and the matching Federal infrastructure grant will enable the Board to commence much needed improvements to the Malkin Bowl.

This new agreement will give the Society security of tenure for a further ten years and enable them to participate financially in the improvements planned for the Malkin Bowl over the next five years.

Prepared by:  
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