
CITY OF KELOWNA

MEMORANDUM

Date: May 10, 2005
File No.: 0230-20
To: City Manager
From: Director of Parks and Leisure Services
Subject: Kelowna Visual and Performing Arts Centre Loan and Agreements

RECOMMENDATION:

THAT the City of Kelowna assume full responsibility for the capital loan from HSBC to the Kelowna Visual and Performing Arts Centre Society (KVPACS);

AND THAT the current agreements with KVPACS be amended as per the report from the Director of Parks and Leisure Services dated May 10, 2005;

AND THAT the City repay the loan from HSBC in its entirety through internal financing of \$100,000 from the Community Arts Centre Reserve and up to \$1,000,000 from the Major Facilities Reserve with repayment to the Major Facilities Reserve from taxation at approximately \$200,000 plus interest per year for the years 2006 to 2010;

AND FURTHER THAT the 2005 Financial Plan be amended to show the change in funding for the capital project from Community Contributions to Reserve Funding.

BACKGROUND:

On March 14, 2005, City Council gave approval in principle to the City assuming full responsibility for the capital loan acquired by KVPACS to finance the capital costs of construction of the Rotary Centre for the Arts. This approval was subject to identifying a funding source and determining an appropriate approach to required changes in the Management and Operating Agreement and the Capital Contribution and Development Agreement between the City and KVPACS.

KVPACS has agreed to the following changes in our legal agreements:

1. The City of Kelowna and KVPACS recognize that the legal agreements between the parties require modifications arising from the City's decision to take over the capital debt of KVPACS.
2. The appropriate legal mechanism for binding modifications to the agreements will be brought forward for the required corporate approvals after City Council gives final approval to assuming the debt.
3. It is not the intention of the City to seek financial recourse from KVPACS as a result of assuming the debt.

4. Clauses 8.1c, 14.2a in the Management and Operating Agreement, the Tripartite Agreement, and the Capital Contribution and Development Agreement become null and void.
5. The capital funds currently held by KVPACS (approximately \$30,000) as proceeds from the capital fund raising will be retained by KVPACS and be put toward capital projects in the Rotary Centre for the Arts.
6. KVPACS will continue to collect pledges to its capital campaign and use those funds for capital projects in the Rotary Centre for the Arts.
7. Since the Capital Development and Contribution Agreement will become null and void, the amended agreements will include clear policies for holding and spending capital funds and for the approval process for future capital projects.

The clauses referred to in Number 4 above deal with the obligations to repay the loan and are therefore, no longer required. Staff is recommending allowing KVPACS to retain funds already raised or pledged because we believe that donors do not expect the funds to go to the City and the facility needs further capital expenditures.

The Financial Services Department has reviewed the City's options for funding the loan repayment and recommends full repayment of the loan at this time from existing reserves with repayment of the majority of the funding back into the Major Facilities Reserve. The annual taxation funding will be reviewed in future years to determine if full repayment from taxation is required based on both taxation impacts and reserve requirements.

David Graham
Director of Parks and Leisure Services

cc: Director of Financial Services