



City of Richmond

Report to Committee

To: General Purposes Committee

Date: September 14, 2010

From: Jane Fernyhough
Director, Arts, Culture & Heritage Services

File: 11-7000-01/2010-Vol
01

Re: Gateway Theatre: Material Terms for Operating Agreement

Staff Recommendations

1. That the Material Terms for the Operating Agreement between the City of Richmond and the Richmond Gateway Theatre Society as to be used as the basis for the updated Operating Agreement be endorsed; and
2. That the CAO & General Manager, Community Services be authorized to execute the Operating Agreement with the Richmond Gateway Theatre Society that includes the Material Terms outlined in the report from the Director, Arts, Culture & Heritage Services dated September 9, 2010.

FOR Jane Fernyhough
Director, Arts, Culture & Heritage Services
(604-276-4288)

FOR ORIGINATING DEPARTMENT USE ONLY			
ROUTED TO:	CONCURRENCE		CONCURRENCE OF GENERAL MANAGER
Finance	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
Law	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>		
REVIEWED BY TAG	YES cvc <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	REVIEWED BY CAO <i>Acting</i> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

Staff Report

Origin

The current operating agreement between the City of Richmond and the Richmond Gateway Theatre Society (RGTS) was signed in 1999. Staff are currently working with the Board and staff of Gateway to update the agreement. This report outlines several proposed changes to the material terms of the agreement and seeks Council endorsement to continue negotiating the agreement based on these terms.

The updating of the Richmond Gateway Theatre Society agreement speaks to Council's goal to *Advance the City's destination status and ensure our continued development as a vibrant cultural city with well established festivals and the arts through effectively involving partners.*

Analysis

The current agreement has been in effect since 1999 and has not changed substantially since the Theatre was opened in 1984. Many things have changed in the ensuing years including the maturing of the RGTS, legal requirements of the City as dictated in the Community Charter, the need for organizations to be nimble and flexible and a desire on both sides for a strong, autonomous and accountable arts organization.

Current Agreement

The RGTS occupies and manages the Gateway Theatre under the terms of an operating agreement with the City of Richmond. The Gateway is one of only two suburban municipalities in the Lower Mainland with a professional resident producing theatre company. A producing theatre company produces their own plays (choose the play, secure rights, engage director, actors, etc, build sets and costumes). The RGTS produces six (6) productions a year. They also manage the rental of the theatre and associated spaces to community groups and private companies as well as run the Gateway Academy.

The Society is governed by a Board of Directors made up of 13 voting members. Eight (8) are elected from the membership, four (4) are appointed by Council and one (1) is a Council member appointed by the Mayor. The City also appoints a staff member from the Finance Division to sit on the Gateway Finance Committee.

The City provides a grant which can only be used for administration costs. The Society is responsible for the costs of productions and programs through earned revenue (ticket sales, program fees, rental income) and grants and sponsorships. The City covers any building upgrades and operating budget increases through capital and minor capital programs and additional level operating budget requests. The City also provides legal and human resource services and IT and telephone services.

Material Terms for the new agreement

In order to achieve the goal to achieve a strong, autonomous arts organization accountable to the City through clearly articulated and measurable outcomes the following material terms to the new agreement are recommended.

The City will:

- decrease the number of Board members appointed by Council from 4 to 2. This would reduce the liability and accountability of the City and make the Society more autonomous. This would also require a constitutional change by the Society. A constitutional change requires a special resolution to be passed by the membership at a General Meeting;
- the City shall appoint a Council member to act as the liaison between City Council and the Society. The RGTS will propose a change to their constitution removing the portion of clause 5.01 that appoints a City Councillor as a Director. This removes / reduces the liability and accountability of the City and makes the Society much more autonomous;
- the City will allocate an annual conditional grant, indexed by CPI, and not tied to specific expenses. This makes the Board more accountable and provides flexibility and efficiency in budget management. The RGTS will submit additional level requests to be considered should City finances allow. The Society would continue to submit capital requests for consideration under the City capital budget process;
- given the large grant the City allocates to the Society a City staff person would still be appointed to sit on the Gateway Finance Committee;
- be responsible for repair and maintenance of the Theatre with priorities for maintenance and facility improvements set in collaboration with the Society;
- be responsible to maintain the existing level of support for IT and telephone services to the Theatre. Any upgrades to hardware, software or additional requests are the responsibility of the RGTS. These could be submitted through the annual City additional level request or capital budget submission or other means deemed by the Society. Compliance with existing City systems will be maintained;
- be responsible to maintain the Plaza around the Theatre for the use of the general public including persons attending events in the Theatre;
- maintain the parking lot around the Theatre. The City, through the Bylaws Division, grants parking concessions on application: Gateway staff parking decals; parking passes for RGTS subscribers; parking passes for other event users to be dispensed by Gateway staff.

The Society will:

- use the Theatre for the purposes of production of plays, recitals, lectures, dance performances, concerts and other performances; theatre arts training; performance of community educational events; and, performance space by third parties and other purposes that may be otherwise permitted by the City in writing;
- ensure a minimum of one third of each year be used for Society programs and the balance of each year is available for community use;
- be responsible for all aspects of the operation of the Theatre including all programming and booking of events; operation of all concessions; operation of all systems and equipment required for performances and events; construction, decoration, maintenance, storage and

removal of all sets, props and accessories required for performances and events; and operation of the Theatre Arts training program;

- maintain general liability insurance for not less than five million dollars (\$5,000,000) against claims for personal and other third part liabilities and the City shall be named as an additional names insured;
- resolve to amend their constitution removing the portion of clause 5.01 that appoints a City Councillor as a Director;
- be fully responsible for the actions of any third parties which the Society permits to use all or part of the Theatre and shall indemnify the City in connection with such actions. The Society will also require all groups or individuals the Society permits to use all or part of the Theatre to carry comprehensive general liability insurance in an amount of five million dollars (\$5,000,000) naming the Society and the City as additional insured;
- be solely responsible for all matters involving all persons employed by the Society;
- be responsible for securing legal and human resource services independent of the City;
- incur all expenses and retain all revenues related to concessions, performances, events including rental to third parties. The Society agrees that it will pay the City 50% of any surplus revenue after the first fifteen thousand dollars (\$15,000) within ninety (90) days of the Society's financial year end;
- provide to the City their strategic and business plans and present an annual report and audited financial statements to Council through the Parks, Recreation & Cultural Services Committee;
- make the Theatre available for City purposes subject to availability;
- agree that the Society has no right to name all or any portion of the Theatre and that all sponsorship and naming rights in connection with the Theatre are owned by the City.

The City and the Society will:

- continue to facilitate use of the Gateway by not-for-profit Richmond groups through the One Free Day Policy;
- outline specific and measurable outcomes and accountabilities in the agreement for the Society which will be reported on and reviewed annually;
- agree the term of the agreement will be for five (5) years.

Financial Impact

There is no financial impact to endorsing these material terms to facilitate negotiation of the agreement.

As part of the 2010 City base operating budget the operating grant is \$982,900. Additional expenses for electricity and natural gas, garbage and recycling pickup are budgeted at \$98,200

and janitorial supplies at \$6,800 for a total budget of \$1,087,900. This does not include IT services which include annual software licensing costs, telephone systems, hosting of the website, internet, server space and support for all computers. It also does not include capital, minor capital or one time additional levels as approved by Council.

Conclusion

The Richmond Gateway Theatre Society and the City have been in discussions for the past several years regarding an updated Operating Agreement. This report sets out the material terms of the new agreement for Council consideration and approval before negotiating the final Operating Agreement.



FOR Jane Fernyhough
Director, Arts, Culture & Heritage Services
(604-276-4288)