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ADMINISTRATIVE REPORT

Report Date: December 8, 2010
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Meeting Date: December 14, 2010

TO: Vancouver City Council

FROM: Director of Real Estate Services in consultation with Director of Planning,
Director of Social Development and Director of Legal Services

SUBJECT: Lease of City-owned property at 1015 East Hastings Street, Vancouver to
United We Can (dba SOLEFood)

RECOMMENDATION

THAT Council authorize the Director of Real Estate Services to enter into a lease to United We Can (the "Tenant") of City-owned property at 1015 East Hastings Street, (the "Property"), legally known as Lot C, District Lot 181, Block 63, Plan 21524, PID: 009-392-815, as shown heavily outlined on Schedule A, subject to the following general terms and conditions:

Term: Ten (10) years, effective February 1, 2011, plus one (1) renewal option for an additional ten (10) years.

Rent: Nominal Gross Rent. One (\$1.00) dollar per year, (inclusive of Property Taxes) plus applicable HST.

Land Use: Community Garden.

Early Termination: The City reserves the right of early termination upon providing the Tenant with twelve (12) months prior written notice.

Other Terms and Conditions: The lease is to be provided by the Landlord and drawn to the satisfaction of the Directors of Legal Services and Real Estate Services.

Tenant to be responsible for all site improvements and costs associated with establishment of the intended use.

The Tenant may not do anything on the Property during the term of the lease to disturb the soils thereon.

The lease is not to be finalized or is to contain a provision prohibiting the Tenant from making any use of the Property until the Ministry of the Environment explicitly confirms in writing that the Contaminated Sites Regulations' site profile exemption contained in section 4(7) thereof applies so as to exempt from the site profile requirement the development permit to be issued in connection with this lease.

The Tenant may not carry out any bio-remediation or other remediation activities on the Property without first obtaining all required governmental and regulatory approvals therefore and without first obtaining from the Ministry of the Environment an explicit written confirmation that such activities will not be considered to involve any disturbance of the soils on the Property so as to invalidate the site profile exemption relied upon in issuing the development permit.

No legal rights or obligation is hereby created and none shall arise until the lease document is fully executed by both parties.

The foregoing constitutes a grant and approval requires eight affirmative votes of Council.

CITY MANAGER'S COMMENTS

The City Manager RECOMMENDS approval of the foregoing.

The City Manager supports Council policy in respect of subsidizing rents for social or cultural services occupying Property Endowment Fund sites, but in this unique circumstance given the limited market potential of the property, it is appropriate that Council make exception to the policy, primarily on the basis of the very limited uses this site could be put to, and the advice of the Director of Real Estate Services that the prospect of generating net rental income is negligible. Furthermore, the benefits from the intended use align with a number of Council priorities while allowing continued capital appreciation of the asset within the Property Endowment Fund as a holding property.

The potential to generate net rental revenue would require significant costs to remediate, likely in excess of what any potential tenant could agree to pay. As a result, the best option for this Property is to continue to hold it for its originally intended use as a housing site pending partnerships which would allow such a development to move ahead. In the meantime, the community can benefit from the use of the Property as a garden site, the Property Endowment Fund realizes capital asset appreciation, and therefore realizes its stated goal of supporting the City's public objectives without jeopardizing either the real value of the fund, or the reasonable return on its assets.

Staff have been instructed to work closely with Vancouver Coastal Health to ensure that agricultural use on this site, given the soils contamination, are very carefully managed. It will be important to ensure that life safety and best practices around urban agriculture are carefully managed.

COUNCIL POLICY

It is Council policy that in leasing City-owned properties held for non-civic use Real Estate Services seek terms based on market value rents and responsibility for appropriate operating costs and additional rent equivalent to property taxes being with the tenant.

On June 8, 1993, City Council further instructed that the Property Endowment Fund should not subsidize rents for social service or cultural organizations occupying its property, and that where subsidies on these sites are deemed appropriate, funding be provided from the Operating Budget in the form of grants. At the same time, Council approved the transfer of several affected properties from the PEF to the Capital Fund to recognize their long term use by non-profit organizations paying nominal or less than market rents.

Approval of grant recommendations requires eight affirmative votes.

PURPOSE

The purpose of this report is to request Council approve a lease of the PEF Property at 1015 East Hastings Street, Vancouver to United We Can for up to twenty (20) years.

BACKGROUND

The subject Property, as shown on Appendix A, is approximately one-half acre in size and was acquired by the City in 1990 with the intent of developing a new Triage Center. Ultimately the Triage Center was not constructed and other development proposals were considered for the Property, none of which materialized.

To-date the Property has not been developed and is being held by the Property Endowment Fund as a strategic investment. A Pattison Outdoor billboard on the site generates \$900 dollars per month in rental income. It is expected the billboard would remain as an income generator during the term contemplated in the lease to United We Can.

The Property is zoned M-1 and the proposed land use is "conditional" within the M-1 zoning and does require a development permit application.

In April, 2010, Council approved the allocation of \$100,000 to SOLEFood, (RTS 8629 refers), to support programming, employment opportunities and capital improvements. In addition to that support, securing 1015 East Hastings Street as a second garden site would allow SOLEfood Farm to produce substantial yields that will increase the amount of available fresh produce in the neighbourhood and create additional employment opportunities for DTES residents.

The Property is contaminated as it was used as a scrap metal yard between 1955 and 1970 and as a result, without considerable remediation the potential uses of the Property and ability to generate net rental revenue are severely limited.

SOCIAL IMPLICATIONS

The proposed community garden at 1015 East Hastings Street aligns with a number of City objectives including:

- Meeting physical, emotional, and social needs of the low income community.
- Supporting meaningful employment, well being, and improved mental and spiritual health.
- Addressing food security needs of low income residents.
- Supporting long-term environmental stewardship goals and ecological health.
- Providing educational opportunities for the public on local food growing and demonstrating capacity of low income populations to contribute to the well being of their neighbourhood.

DISCUSSION

SOLEfood is a project of United We Can, a registered non profit with charitable status supporting social enterprise efforts in the DTES. The project began in 2009 with the transformation of a privately owned, underused parking lot at 769 E Hastings Street into an urban garden. The operations at that site provide urban agriculture education and employment opportunities for 10 Vancouver's inner-city residents, who are trained and employed to construct, plant, maintain, and harvest produce from the farm. The organically grown food is sold to neighbourhood restaurants and community organizations with similar aims of improving neighbourhood food security. Educational tours in urban agriculture are offered during the growing season. Employees experience self/skills development, community connections, and participate in beautification of the neighbourhood.

The proposed garden at 1015 East Hastings Street would operate similarly to their current site, growing food for sale at restaurants and Farmers Markets, with revenues being used to train and employ residents of the Downtown Eastside (DTES) in urban agriculture. In this half-acre plot of land, SOLEFood will employ an additional 10 to 15 residents of the DTES.

Permit Process

A development permit application has been submitted and a notification to the surrounding property owners and interested community groups has been carried out. To date, no significant concerns have been identified. The Director of Planning considers the Property appropriate for the proposed use. A development permit will be issued upon Council approval of the lease terms set out in this report.

Normally, because the Property was used previously for industrial purposes and, in any event, is known to be contaminated, the issuance of a development permit would require a clearance from the Ministry of the Environment, which in turn would require that a Contaminated Sites Regulations site profile be submitted, a site investigation carried out and possibly a remediation plan put into effect. However, because it is expected that the manner in which the Property will be used under the proposed lease will not involve any disturbance of the soils on site, there is an exemption under the Contaminated Sites Regulations which applies to enable the City, as owner, to avoid that process.

Nevertheless, for the exercise of due caution in this respect, it is proposed that the lease cannot be finalized or that it should include a term that the Tenant cannot make any use of the Property until the Ministry of the Environment has given its explicit written confirmation to the City that exemption applies in these circumstances.

Contamination

The proposed tenant, United We Can, has had access to the soils investigation reports produced for the city and is aware of the soil contamination at the Property. The City's Environmental Protection Branch will require the following from United We Can as conditions of approval for the development permit:

- Written understanding and assurance that their proposal will not include any disturbance or excavation of the soil on the Property; and,
- a report from a qualified professional such as an agrologist demonstrating that there will be a suitable barrier between the existing soil and the raised beds to ensure there is no pathway for contamination to migrate to the plants in the raised beds.

In addition to these requirements the Tenant will be exploring innovative techniques for bioremediation (use of microorganisms, fungi, green plants or their enzymes to return the natural environment altered by contaminants to its original condition) that can be employed in tandem with the raised beds plots. In addition, staff will work closely with Vancouver Coastal Health to ensure life safety and good environmental practices for food generation are carefully managed. However, the lease will permit this only insofar as and to the extent that the Ministry of the Environment confirms to the City's satisfaction that it does not involve any disturbance of the soils on the Property so as to trigger the Contaminated Sites Regulations remediation process and invalidate the development permit and that it is done only after the Tenant has obtained all necessary approvals from all levels of government and all regulatory bodies having jurisdiction in respect of such matters.

Property improvements, including a water hook-up, will be the sole responsibility of United We Can. Engineering staff will work with United We Can to connect this Property to an existing water main in the immediate vicinity.

United We Can will be required to submit an Operations Management Plan that outlines roles and responsibilities. The project satisfies City requirements for liability insurance and workers compensation.

A multiple year lease term (10 years, with an option to renew and termination and exit clauses should either party need to terminate the agreement earlier) is required given the start up and implementation resources required during the first year of operations, including staff hiring and training and building of the farm, and ongoing stability and sustainability of the business operations for the SOLEFood project into the future. The lease will be made effective as of February 1, 2011.

FINANCIAL IMPLICATIONS

Should Council approve the recommendations of this report, the Property Endowment Fund will enter into a lease with United We Can at nominal value. This is a holding property for the City and attempts to find a commercial lessee have been unsuccessful. Without considerable remediation, the Property has limited potential rental generating uses beyond the current Pattison Outdoor sign.

CONCLUSION

The Director of Real Estate Services in consultation with Director of Planning, Director of Social Development and Director of Legal Services is presenting the above for Council's consideration noting it constitutes a grant of nominal rent for property held in the Property Endowment Fund and a grant of payment in lieu of property taxes for City-owned property.

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