

Staff Report



Development Services Department

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REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: June 3, 2024

SUBMITTED BY: Cory Bluhm, Executive Director, Economic Development (ext. 7065)

PREPARED BY: Jeremy Dueck, Director, Culture & Entertainment (ext. 5264).

WARD(S) INVOLVED: ALL

DATE OF REPORT: March 16, 2024

REPORT NO.: DSD-2024-259

SUBJECT: Delegated Authority for Talent Purchases and Other Agreements

RECOMMENDATION:

That the Director of Culture & Entertainment, Manager of Special Events, Manager of Arts & Creative Industries, and Manager of Downtown Development and Innovation be authorized to execute legal agreements relevant to the business functions of the Culture & Entertainment division, in accordance with the approval parameters set out in DSD-2024-259, with said agreements to be to the satisfaction of the City Solicitor; and further,

That the Director of Culture & Entertainment be authorized to execute sponsorship agreements, pertaining to Culture & Entertainment, in accordance with the approval parameters set out in DSD-2024-259, with said agreements to be to the satisfaction of the City Solicitor.

REPORT HIGHLIGHTS:

- The purpose of this report is to modify existing delegated authority provisions related to executing legal agreements relevant to the Culture & Entertainment division – Arts & Creative Industries, Special Events, and the Centralized Service Provider (i.e., supporting City-owned culture and entertainment venues).
- The key finding of this report is that the Director of Culture & Entertainment and various managers within Economic Development should be added to the roster of authorized individuals to execute the following agreements within the scope of the Culture & Entertainment division: talent offers and purchase agreements, special event and performer agreements, and sponsorship agreements. All said agreements to be to the satisfaction of the City Solicitor.
- Extending authority for these key legal agreements improves staff's ability to lead and set expectations with venue operators, arts organizations, and community partners, secure live entertainment, improve business operations, create revenue generating opportunities, operate with transparency and accountability, and align with standard

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operating procedures that are considered best practice in the culture and entertainment industry.

- This report supports the delivery of core services.

BACKGROUND:

Culture & Entertainment is a newly formed sub-division that sits within Economic Development and includes 3 units: Arts & Creative Industries, Special Events, and the Centralized Service Provider (CSP), whose team is tasked with providing business services and operational support to the City-owned culture and entertainment venues (i.e., The Centre In The Square, The Registry Theatre, The Conrad Centre for the Performing Arts and The Aud). Collectively, these teams also support numerous City-owned facilities and their operators, including the 44 Gaukel Creative Hub, Victoria Park Pavilion, THEMUSEUM, and the Homer Watson House & Gallery.

As staff review current business practices and work with internal departments to improve operational efficiencies, it is evident that delegated authority for a defined scope of legal agreements will provide clarity for staff as well as for invested groups who interact with the Culture & Entertainment team and conduct business with the City. Signing authority for the agreements described in this report have already been delegated to staff. The proposed changes refine which staff member is delegated to sign agreements.

REPORT:

Culture & Entertainment staff have identified the following agreements for which modified delegated authority would allow the team to function more efficiently and create the necessary infrastructure to scale up business services and operational supports:

1. Talent offers and purchase agreements;
2. Special event and performer agreements; and,
3. Sponsorship agreements.

1. Talent Offers and Purchase Agreements:

The Culture & Entertainment division currently purchases major performers/entertainment, often associated with festivals and events, such as Canada Day. These are often procured through talent agencies. The process for purchasing a show usually consists of two steps:

- a) Submitting a talent “offer sheet” to the agent, and then,
- b) Signing a talent purchase agreement after the agent accepts the talent offer.

Note: The terms of the talent purchase agreement align with the talent offer sheet.

In these instances, purchase agreements have been prepared by third parties (e.g., agents, promoters, artists, etc.) for the City to sign. Talent agencies consider the offer sheet to be a binding proposal. The offer sheet outlines the basic financial deal points, and the purchase agreement adds additional terms and conditions, such as the technical/production rider.

Given the expanded mandate to support all performing arts venues, it is likely that the requirement to purchase talent will increase. Having delegated authority clarity will allow staff to act when talent offer and talent purchase opportunities arise.

Talent Offers and Purchase Agreements

Current Delegated Authority	Proposed Delegated Authority
<p><u>July 4, 2000</u> “That the Manager of Purchasing be designated to sign contracts generated by performers or their agents providing Legal counsel has been given.”</p> <p>Note: On November 9, 2021, Manager of Purchasing designated Manager of Special Events and Manager of the Kitchener Market to sign as well.</p>	<p><u>Add:</u> Manager of Arts & Creative Industries Director of Culture & Entertainment</p>

All Agreements are to the satisfaction of the City Solicitor

Like the delegated authority process recommended and approved in CSD-2023-233, “Execution of Talent, Suite, and Sponsorship Agreements at The Aud,” the Manager of Arts & Creative Industries or Manager of Special Events would execute the talent offer sheet and subsequent talent purchase agreement upon receipt of approval from one of the following persons based on the risk value of the show (i.e., the artist guarantee):

Artist Guarantee	Delegated Authority	Approval Required
Less than \$150K CDN	Manager, Arts & Creative Industries Manager, Special Events	Director, Culture & Entertainment
Greater than \$150K CDN	Manager, Arts & Creative Industries Manager, Special Events Director, Culture & Entertainment	One of the following: Executive Director of Economic Development, GM of Development Services, or CAO

For free festivals and events, the upset limits of performer costs are often determined by the event budget. Where staff may seek to host a ticketed event (such as those that currently occur at The Aud), managers in the Culture & Entertainment division will complete a pro forma/business case to assess the breakeven point for ticket sales and ancillary revenue generation opportunities with each talent purchase.

2. Special Event and Performer Agreements:

When supporting festivals and events on City property, the City often requires two types of contracts to be signed: i) special event agreements, signed by a third-party organization seeking to host/partner on an event on City lands; and, ii) performer agreements, signed by artists who the City has contracted to perform. Unlike Talent Offers, these agreements are generated by City staff.

Following a similar process used at The Aud (Community Services Department Report CSD-02-208), staff have been working with Legal Services to revise an outdated event partnership agreement template previously approved by Council in 2006. The resulting revised special event agreement can be used for Culture & Entertainment events. This report recommends that the Director of Culture & Entertainment, Manager of Arts & Creative Industries, or the Manager of Special Events be authorized to sign the Agreement on behalf of the City.

Staff have also been working with Legal Services to revise an outdated performer agreement template which was initially approved by Council in 1999. In 2000, Council delegated authority to sign same to the Manager of Purchasing or designate, to a monetary limit of \$7,000. In 2000, Council also delegated signing authority to Facilitators in Community Programs and Services, the Facilitator of Special Events, and the Director of Community Programs and Services, with the same \$7,000 monetary limit. In 2006, Council increased the monetary limit of the Facilitator of Special Event's delegated authority to \$20,000. The proposed changes would authorize additional Managers within Economic Development to sign said agreements.

Current Delegated Authority	Proposed Delegated Authority
Pre-Approved Special Event Agreement Template	
<u>September 25, 2006</u> "That the Event Partnership Agreement template, as attached to Community Services Department report CSD-06-098, be approved; and further, That the Manager of Special Events be authorized to execute the pre-approved Event Partnership Agreements, subject to the approval of the City Solicitor."	<u>Add:</u> Manager of Arts & Creative Industries Director of Culture & Entertainment
Pre-Approved Performer Agreement Template	
<u>May 8, 2006</u> "That the Facilitator of Special Events be authorized to execute the pre-approved Entertainment and Service Provider contracts, to a limit of \$20,000, subject to the satisfaction of the City Solicitor and adherence to all Purchasing Guidelines."	<u>Adjust/Add:</u> Manager of Special Events Manager of Arts & Creative Industries Manager of Downtown Development & Innovation Director of Culture & Entertainment

All Agreements are to the satisfaction of the City Solicitor

3. Sponsorship Agreements:

On various occasions, City staff have been able to secure sponsorships for festivals and events. These are often one-time sponsorships, and typically relate directly to the programming delivered at an event. In 2016, Council approved the City’s Municipal Sponsorship Policy (GOV-COR-2000) which grants the CAO or DCAO the delegated authority to enter into agreements for amounts up to \$125,000 for the term of the agreement, subject to the satisfaction of the City Solicitor. As most sponsorship agreements are often for lesser amounts (e.g., sponsorship agreements worth \$5,000) it is more appropriate that signing authorities be delegated from the CAO and DCAO to the appropriate Director and Manager as noted in the table below.

The delegated authority recommended would be exercised upon the approval set out below, and is consistent with the City’s overall sponsorship policy and approval authorities:

Delegated Authority	Value of Sponsorship Agreement pertaining to Culture & Entertainment
Manager of Arts & Creative Industries Manager of Special Events Manager of Downtown Development & Innovation	Less than \$50,000 for the term, less than 10 years in duration and not for naming rights of an entire complex.
Director of Culture & Entertainment	Less than \$125,000 for the term, less than 10 years in duration and not for naming rights of an entire complex.
City Council based on City’s Municipal Sponsorship Policy (GOV-COR-2000)	Greater than \$125,000 for the term, longer than 10 years, and naming an entire complex.

All Agreements are to the satisfaction of the City Solicitor

Updating this delegation of authority will allow for sponsorship agreements pertaining to Culture & Entertainment to be expedited, creating a better customer experience through efficient business operations. All sponsorship agreements will continue to abide by the City’s overall Sponsorship Policy and will be subject to review by Legal, as appropriate.

Conclusion

Approving these delegated authority recommendations will allow the Culture & Entertainment division to achieve greater operational efficiency and provide an improved ability to respond to emerging, time-sensitive opportunities.

STRATEGIC PLAN ALIGNMENT:

The recommendation outlined in this report supports the achievement of the City's strategic vision through the delivery of core service.

FINANCIAL IMPLICATIONS:

No direct impact. Purchasing of performances for free events are made within the scope of approved budgets. The financial risks of solely purchasing a show or buying cooperatively with a promoter include event cancellation, low ticket sales, and negative publicity. In these instances, staff will complete a pro forma/business case for each event and ensure there is appropriate budget capacity to cover any losses. The direct financial liability of cancelling a show is outlined in the offer sheet and talent purchase agreement with the agent (i.e., the "artist guarantee").

COMMUNITY ENGAGEMENT:

INFORM – This report has been posted to the City's website with the agenda in advance of the council / committee meeting.

PREVIOUS REPORTS/AUTHORITIES:

- CSD-2023-233, Execution of Talent, Suite, and Sponsorship Agreements at The Aud
- CSD-02-208, Licence to Operate an Event Agreement at the Kitchener Memorial Auditorium Complex
- GOV-COR-2000, Municipal Sponsorship Policy

APPROVED BY: Dan Chapman, CAO

ATTACHMENTS: NA