**Agenda - Council - June 25, 2003**

**Report - Standing Policy Committee on Protection and Community Services - June 9, 2003**

**Item No. 9 Amendment to the Assiniboine Park Bandshell Agreement (Lyric)**
**File PR-7.1**

STANDING COMMITTEE RECOMMENDATION:

On June 18, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services, and submits the following to Council:

1. That the Agreement with the Assiniboine Park Bandshell Inc. (Lyric) as amended by Council on July 18, 2001, be further amended to delete the requirement that they utilize Sodexho Marriott Services as their concession operator, and to allow the Assiniboine Park Bandshell Inc. to operate the concession with its own staff and volunteers.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including the execution of any documents related thereto.

**Report - Standing Policy Committee on Protection and Community Services - June 9, 2003**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 18, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 9, 2003, the Standing Policy Committee on Protection and Community Services concurred in the administrative recommendation, and submitted its recommendation to Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

**RE:** Amendment to the Assiniboine Park Bandshell Agreement (Lyric)

**FOR SUBMISSION TO:** The Standing Policy Committee on Protection and Community Services

**ORIGINAL REPORT SIGNED BY:** Ursula Stelman, Director
Community Services Department

**REPORT DATE:** June 2, 2003

**RECOMMENDATION(S):**

- That the Agreement with the Assiniboine Park Bandshell Inc. (Lyric) as amended by Council on July 18, 2001, be further amended to delete the requirement that they utilize Sodexho Marriott Services as their concession operator, and to allow the Assiniboine Park Bandshell Inc. to operate the concession with its own staff and volunteers.

**REPORT SUMMARY:**

**Key Issues:**

- In July 2001 City Council approved an amendment to the Assiniboine Park Bandshell Agreement requiring the Lyric to pay 10% of net profits from concession sales to the Assiniboine Park Enterprise Reserve Fund, use all proceeds retained by the Lyric exclusively to support operations of the Lyric Bandshell, and to utilize Sodexho Marriot Services as their concession operator. The subject agreement as to revenue sharing was to terminate on November 30, 2004 at which time terms and conditions regarding the operation of the subject concession are to be re-negotiated.

- The existing food services contract with Sodexho Marriott Services Canada Ltd. as it relates to food and beverage services for Assiniboine Park is for specified locations in Assiniboine Park. It does not include the Lyric Bandshell as that facility did not exist at the time the contract was awarded in 1994.

- Sodexho Marriot Services did not provide satisfactory concession services to the Bandshell during the 2002 Lyric season. Sodexho Marriott did not pay any proceeds to the Assiniboine Park Bandshell and subsequently no proceeds were paid to the Assiniboine Park Enterprise Reserve Fund.

- Assiniboine Park Bandshell operators are proposing to operate the concession on their own, utilizing student employees and volunteers.

**Implications of the Recommendation(s):**

**General implications:**

? **None**
? **For the organization overall &/or for other departments**
**X** **For the community and/or organizations external to the City**
? **Involves a multi-year contract**

**Comment(s):** There is potential increased revenue to Assiniboine Park Bandshell Inc., and corresponding loss of revenue to Sodexho Marriott Services Canada Ltd.

**Policy implications:**

**X** **No**
? **Yes** **Comment(s):**

**Environmental implications:**

**X** **No**
? **Yes** **Comment(s):**

**Human Resources implications:**

**X** **No**
? **Yes** **Comment(s):**

**Financial implications:**

**X** **Within approved current and/or capital budget**
? **Current and/or capital budget adjustment required**

**Comment(s):** Any revenue payable to the City will be contributed to the Assiniboine Park Enterprise Reserve Fund. As such, there will be no effect on current budgets.

**REASON FOR THE REPORT:**

Council approval is required to amend the Assiniboine Park Bandshell Agreement.

**HISTORY:**

By Council approved agreement dated March 25, 1998 between the City of Winnipeg and the Assiniboine Park Bandshell Inc., permission was granted to allow the Bandshell Inc. to construct and operate a performing bandshell within Assiniboine Park.

On July 19, 2000 Council amended the subject agreement. This states, in part, as follows:

I. That the Assiniboine Park Bandshell Agreement to operate the Lyric Bandshell be amended to allow the sale of concessions and other improvements to the Bandshell subject to:
    a. Revenue sharing (not inconsistent with the existing Sodexho Marriot Services Concession Agreement) in the amount equivalent to 15% of gross sales to be paid to the City annually in accordance with a schedule for payment to be determined by the Director of Community Services.
    b. An indemnification in favour of the City in respect of any and all claims for loss or damages of any kind arising out of concession sales and services.

On July 18, 2001 Council further amended the subject agreement as follows:

I. That the amending agreement with the Assiniboine Park Bandshell, as approved by Council on July 19, 2000 be further amended so that the amount payable to the City shall be 10% of net profits, subject to:
    a) Said payment to be deposited into the Assiniboine Park Enterprise Reserve Fund.
    b) All proceeds retained by the Lyric Bandshell shall be used exclusively to support ongoing operation of the Lyric Bandshell.
    c) That the Lyric Bandshell shall utilize Sodexho Marriott as concession operator.
    d) That this agreement shall terminate on November 30, 2004 at which time terms and conditions regarding the operation of the subject concession shall be re-negotiated.

**DISCUSSION:**

By Council approved Agreement, the Lyric Bandshell operates in Assiniboine Park on a non-profit basis to present live performances of music, theatre, dance and other artistic endeavours for public enjoyment. Council approved two subsequent amendments to the Agreement allowing Assiniboine Park Bandshell Inc. to provide concession services at the Lyric Bandshell with proceeds in support of Lyric programs and operations, and with 10% of net profits payable to the Assiniboine Park Enterprise Reserve Fund.

Operators of the Lyric Bandshell report that for the 2002 performance season, their concession operator, Sodexho Marriott Services did not provide adequate services; Sodexho did not consistently open the concession at agreed upon times for theatre performances, they had inadequate food and drink products and selection prompting complaints from theatre audience

patrons, they never paid any proceeds to Assiniboine Park Bandshell Inc., and they failed to reply to correspondence from Lyric Bandshell requesting financial accounting and reconciliation.

Assiniboine Park Bandshell Inc. is proposing to operate the Lyric concession services themselves. They have applied for and have received favourable notice of a Green Team Grant to hire a student to work at the theatre and concession stand. Volunteer labour will supplement the student's work to maintain concession services during Lyric performances and on summer weekends, maximizing returns in support of Lyric operations and a 10% net profit payable to Assiniboine Park Reserve Fund.

The existing food services contract with Sodexho Marriott Services Canada Ltd. as it relates to food and beverage services for Assiniboine Park is for specified locations in Assiniboine Park. It does not include the Lyric Bandshell as that facility did not exist at the time the contract was awarded in 1994.

All concession services contracts in Assiniboine Park will expire in late 2004, allowing the Assiniboine Park Enterprise to negotiate new terms and conditions for concession services throughout the Park.

**FINANCIAL IMPACT STATEMENT:**

There is no financial impact associated with this report.

# Financial Impact Statement

**Date:** June 2, 2003

**Project Name:**

**First Year of Program** **2003**

Amendment to the Assiniboine Park Bandshell Agreement (Lyric)

| | 2003 | 2004 | 2005 | 2006 | 2007 |
|---|---|---|---|---|---|
| **Capital** | | | | | |
| Capital Expenditures Required | $ - | $ - | $ - | $ - | $ - |
| Less: Existing Budgeted Costs | - | - | - | - | - |
| Additional Capital Budget Required | $ - | $ - | $ - | $ - | $ - |
| **Funding Sources:** | | | | | |
| Debt - Internal | $ - | $ - | $ - | $ - | $ - |
| Debt - External | - | - | - | - | - |
| Grants (Enter Description Here) | - | - | - | - | - |
| Reserves, Equity, Surplus | - | - | - | - | - |
| Other - Enter Description Here | - | - | - | - | - |
| Total Funding | $ - | $ - | $ - | $ - | $ - |
| Total Additional Capital Budget Required | $ - | $ - | $ - | $ - | $ - |
| Total Additional Debt Required | $ - | $ - | $ - | $ - | $ - |
| **Current Expenditures/Revenues** | | | | | |
| Direct Costs | $ - | $ - | $ - | $ - | $ - |
| Less: Incremental Revenue/Recovery | - | - | - | - | - |
| Net Cost/(Benefit) | $ - | $ - | $ - | $ - | $ - |
| Less: Existing Budget Amounts | - | - | - | - | - |
| Net Budget Adjustment Required | $ - | $ - | $ - | $ - | $ - |

There is no financial impact associated with this report. Any revenue payable to the City will be contributed to the Assiniboine Park Enterprise Reserve Fund. As such, there will be no effect on current budgets.

C. Wightman, Manager
Finance & Administrative Services

**IN PREPARING THIS REPORT THERE WAS CONSULTATION WITH, AND CONCURRENCY BY:**

Legal Services Division, Corporate Services Department

**THIS REPORT SUBMITTED BY:**

Department: Community Services Department
Division: Assiniboine Park Enterprise
Prepared by: Frank Caldwell, Acting Manager, Assiniboine Park Enterprise

File No.